

TITLE 327 WATER POLLUTION CONTROL BOARD**SECOND NOTICE OF COMMENT PERIOD**

#01-95(WPCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING 327 IAC 15 NPDES GENERAL PERMIT RULE PROGRAM RELATED TO STORM WATER**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules concerning 327 IAC 15 that affect storm water run-off associated with construction activity, and storm water discharges associated with industrial activity. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: April 1, 2001, Indiana Register (24 IR 2243).

CITATIONS AFFECTED: 327 IAC 15-2-3; 327 IAC 15-2-6; 327 IAC 15-2-8; 327 IAC 15-2-9; 327 IAC 15-3-1; 327 IAC 15-3-2; 327 IAC 15-3-3; 327 IAC 15-5-1; 327 IAC 15-5-2; 327 IAC 15-5-3; 327 IAC 15-5-4; 327 IAC 15-5-5; 327 IAC 15-5-5.5; 327 IAC 15-5-6; 327 IAC 15-5-6.5; 327 IAC 15-5-7; 327 IAC 15-5-7.5; 327 IAC 15-5-8; 327 IAC 15-5-10; 327 IAC 15-5-11; 327 IAC 15-5-12; 327 IAC 15-6-1; 327 IAC 15-6-2; 327 IAC 15-6-4; 327 IAC 15-6-5; 327 IAC 15-6-6; 327 IAC 15-6-7; 327 IAC 15-6-7.3; 327 IAC 15-6-7.5; 357 IAC 15-6-8.5; 327 IAC 15-6-10; 327 IAC 15-6-11; 327 IAC 15-6-12.

AUTHORITY: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2; IC 13-18-3-1; IC 13-18-3-5; IC 13-18-4.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges. The National Pollutant Discharge Elimination System (NPDES) storm water Phase II final rule was published on December 8, 1999, at 64 FR 68722. It requires NPDES permit coverage, mostly under general permits, for storm water discharges from: regulated small municipal separate storm sewer systems (MS4s) primarily located in urbanized areas; and operators of construction activity disturbing one acre or more of land. The federal rule also adds a revision to the Phase I industrial "no exposure" exclusion whereby facilities with no exposure of industrial activities or materials to storm water do not need to seek coverage under an NPDES storm water permit. However, these facilities will be required to submit a "no exposure certification form" to the state that verifies whether the facility meets the "no exposure" definition. Therefore, the amendments to 327 IAC 15-5, Storm water run-off associated with construction activity, and 327 IAC 15-6, Storm water discharges associated with industrial activity, seek to modify and revise the existing rules to add the federal Phase II requirements, add changes to the Phase I program, and add clarity and effectiveness to the existing program. Revisions are also being made to 327 IAC 15-2 and 327 IAC 15-3, to bring them in line with the amendments to the storm water rules. The environmental benefit to be achieved from this rulemaking is that it regulates storm water run-off which is known to be a leading cause of pollution in water bodies.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from April 1, 2001, through May 2,

2001, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Indiana Manufacturers Association (IMA)

Indiana Builders Association (IBA)

American Electric Power (AEP)

Indiana-Kentucky Electric Corporation (IKEC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: IDEM and the WPCB should acknowledge the value of the general permit program while developing amendments to 327 IAC 15, to meet the requirements of the federal Phase II program. IMA emphasizes the value of the general permit program in Indiana and IMA encourages its continued usage. IMA further points out that antidegradation review for general permits is redundant. (IMA)

Response: Indiana will continue to utilize the general NPDES permit as a means to allow entities to comply with Rules 5 and 6. Changes to Rules 1 through 4 will still require permittees discharging storm water under Rule 5 or 6 to obtain an individual NPDES permit in cases where the receiving water is classified as an outstanding state resource, exceptional use, or outstanding national resource water, or where the receiving water quality is significantly lowered downstream of the discharge. Under the individual NPDES permit requirements found in Article 5, permittees may be required to conduct antidegradation studies as part of the individual NPDES permit application process. When an entity obtains a general NPDES permit under Article 15, no antidegradation studies are, or will be required.

Comment: IBA understands the need for IDEM to conform to the NPDES storm water Phase II federal rules, specifically as it deals with construction activity. IBA continues to work with the agency on the implementation and enforcement of Rule 5 and feels it is working well across the state. Though IBA understands IDEM's position of needing to comply with the Phase II rules, IBA encourages IDEM to keep the rest of the rulemaking and the general permit process intact. (IBA)

Response: Indiana will continue to utilize the general NPDES permit as a means to allow entities to comply with Rules 5 and 6. Due to the development of new rules and the corresponding necessary changes to Rules 1 through 4, the portions of Articles 15 and 5 that relate to Phase II storm water are potentially subject to revision. However, the rulemaking and general NPDES permitting process will remain unchanged during these revisions to Article 15.

Comment: Information on leaks and spills is requested in two separate locations. It is suggested that one requirement be deleted or the language changed so that a cross-reference can be made to the other section. Regarding general requirements of a SWP3 where the rule states that the plan has to be certified by qualified personnel, AEP and IKEC recommend including a definition of qualified personnel or a cross-reference to the definition. Under monitoring and reporting requirements AEP and IKEC have the following comments: they recommend changing the language from person to permittee or entry, as well as, including the number of samples required during the implementation period; and, regarding visual inspections as identified in the NOI letter, AEP and IKEP would like clarification on whether the submittals of those reports are required or recommended. (AEP and IKEC)

Response: IDEM concurs with AEP and IKEC that more clarification of the requirements and intent of Rule 6 are needed. The proposed Rule 6 has significant revisions to the sampling and storm water pollution prevention plan requirements. The revised format of the plan requirements would eliminate repetition. The proposed Rule 6 language defines ambiguous terms, such as "qualified environmental professional", and changes any relevant reference from "person" to

“facility”. The proposed Rule 6 language also eliminates the requirement to conduct visual inspections, but increases the sampling requirement to annual sampling throughout the 5-year term of the permit.

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to: #01-95(WPCB)[General Permits - Storm Water Rules]

Larry Wu
Rules Section Chief
Office of Water Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the twelfth floor reception desk, Office of Water Quality, 100 North Senate Avenue, Indianapolis, Indiana.

COMMENT PERIOD DEADLINE

Comments must be postmarked or hand delivered by October 3, 2001.

Technical information regarding this action may be obtained from Lori Gates, Office of Water Quality, Wet Weather Section, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 327 IAC 15-2-3 IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-2-3 NPDES general permit rule applicability requirements

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 3. (a) A general permit rule may regulate all designated categories of point sources for which a general permit rule exists, except:

- (1) as provided under section 6 or 9 of this rule or the applicable general permit rule; and
- (2) point source discharges meeting the applicability requirements of a general permit rule, who are already subject to individual NPDES permits prior to the effective date of a general permit rule.

(b) Persons excluded from general permit rule regulation solely because they have an existing individual NPDES permit may request to be regulated under a general permit rule and may request that the individual NPDES permit be revoked or modified to remove the point source from the existing permit. Upon revocation or expiration of the individual NPDES permit, the general permit rule shall apply to such point source discharges regulated under this article. **This allowance to change from an individual NPDES permit to a general NPDES permit does not apply to municipal separate storm sewer system permittees who were issued an individual NPDES permit before January 1, 2000.**

(c) A person that holds an individual NPDES permit may have discharges regulated under an applicable general permit rule if such

discharges are not addressed in the individual permit. (*Water Pollution Control Board; 327 IAC 15-2-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 17*)

SECTION 2. 327 IAC 15-2-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-2-6 Exclusions

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 6. An individual NPDES permit issued under 327 IAC 5 is required for a discharge to a receiving stream identified as an outstanding state resource water, an exceptional use water, or an outstanding national resource water as defined under 327 IAC 2-1-2(3), 327 IAC 2-1-11(b), or 327 IAC 2-1.5-4 or which would significantly lower the water quality, as defined under 327 IAC 5-2-11.3(b)(1) of such a water downstream of the point source discharge. **This section does not apply to a permittee covered under 327 IAC 15-5, 327 IAC 15-6, or 327 IAC 15-13 that discharges into an outstanding state resource water or an exceptional use state water. A permittee, covered under 327 IAC 15-5, 327 IAC 15-6, or 327 IAC 15-13, that discharges into an outstanding state resource water or an exceptional use state water, may be issued a general permit.** (*Water Pollution Control Board; 327 IAC 15-2-6; filed Aug 31, 1992, 5:00 p.m.: 16 IR 17; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1476*)

SECTION 3. 327 IAC 15-2-8 IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-2-8 Nontransferability of notification requirements; time limits for individual NPDES permit application

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 4-22-2; IC 13-11-2; IC 13-18-4

Sec. 8. (a) Compliance with the NOI letter submission requirements under this article may not be transferred. If ownership/operation of a facility is transferred to a new person, that person must submit a NOI letter pursuant to 327 IAC 15-3 or the applicable general rule, or seek coverage under an individual NPDES permit pursuant to 327 IAC 5.

(b) A person who filed a NOI letter under this article and who subsequently was requested by the commissioner to file an application for an individual NPDES permit has one hundred twenty (120) days from the time of the request by the commissioner to file the application. (*Water Pollution Control Board; 327 IAC 15-2-8; filed Aug 31, 1992, 5:00 p.m.: 16 IR 18*)

SECTION 4. 327 IAC 15-2-9 IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-2-9 Special requirements for NPDES general permit rule

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 4-21.5; IC 13-11-2; IC 13-18-4

Sec. 9. (a) If a general permit rule is amended, all persons regulated by the affected general permit rule must be notified by first class mail of the amendment by the commissioner within sixty (60) days after the effective date of the amended rule. Those persons notified by the commissioner under this subsection shall:

- (1) apply for an individual NPDES permit under 327 IAC 5-3 within one hundred twenty (120) days after the effective date of the amended rule; or

(2) submit a NOI letter containing the information required in 327 IAC 15-3-2 or the applicable general rule, and the amended rule within ninety (90) days after the effective date of the amended rule.

(b) The commissioner may require any person either with an existing discharge subject to the requirements of this article or who is proposing a discharge that would otherwise be subject to the requirements of this article to apply for and obtain an individual NPDES permit if one (1) of the six (6) cases listed in this subsection occurs. Interested persons may petition the commissioner to take action under this subsection. Cases where individual NPDES permits may be required include the following:

- (1) The applicable requirements contained in this article are not adequate to ensure compliance with:
 - (A) water quality standards under 327 IAC 2-1 or 327 IAC 2-1.5; or
 - (B) the provisions that implement water quality standards contained in 327 IAC 5.
- (2) The person is not in compliance with the terms and conditions of the general permit rule.
- (3) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants from the point source.
- (4) Effluent limitations guidelines that are more stringent than the requirements in the general permit rule are subsequently promulgated for point sources regulated by the general permit rule.
- (5) A water quality management plan containing more stringent requirements applicable to such point source is approved.
- (6) Circumstances have changed since the activity regulated under this article began so that the discharger is no longer appropriately controlled under the general permit rule, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.

(c) If, under subsection (b), the commissioner requires an individual NPDES permit, pursuant to 327 IAC 5-3, the commissioner shall notify the person in writing that an individual NPDES permit application is required. This notice shall be issued pursuant to IC 4-21.5 and shall also include the following:

- (1) A brief statement of the reasons for this decision.
- (2) An application form.
- (3) A statement setting a time for the person to file the application.
- (4) A statement that on the effective date of the individual NPDES permit, the general permit rule, as it applies to the individual person, shall no longer apply.

The commissioner may grant additional time upon request of the applicant for completion of the application.

(d) An operator, as defined in 327 IAC 15-5-4(7), of a storm water discharge that meets the applicability requirements of the general permit rule and is not covered by an existing individual NPDES permit, must submit an application under 40 CFR 122.26 as published in the Federal Register on November 16, 1990, and 327 IAC 5-3 if the operator seeks to cover the discharge under an individual permit.

(e) On the effective date of an individual NPDES permit that is issued to a person regulated under this article, this article no longer applies to that person.

(f) Persons with a discharge meeting all the applicability criteria of more than one (1) general permit rule shall comply with all applicable general permit rules. (*Water Pollution Control Board; 327 IAC 15-2-9; filed Aug 31, 1992, 5:00 p.m.: 16 IR 18; errata filed Sep 10, 1992,*

12:00 p.m.: 16 IR 65; errata, 16 IR 751; filed Jan 14, 1997, 12:00 p.m.: 20 IR 1476)

SECTION 5. 327 IAC 15-3-1, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-3-1 Purpose

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 1. The purpose of this rule is to establish the requirements and procedures for submitting a NOI letter under a general permit rule. **Unless otherwise specified under an applicable general permit rule,** the NOI letter shall be sent to the following address:

Indiana Department of Environmental Management
 Office of Water Management Quality
 105 South Meridian Street 100 North Senate Avenue
 P.O. Box 6015
 Indianapolis, Indiana 46206

Attention: Permits Section, General Permit Desk
 (*Water Pollution Control Board; 327 IAC 15-3-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 6. 327 IAC 15-3-2, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-3-2 Content requirements of a NOI letter

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 2. **Except for permittees covered under 327 IAC 15-5 and 327 IAC 15-13,** the NOI letter shall include the following:

- (1) Name, mailing address, and location of the facility for which the notification is submitted.
- (2) Standard Industrial Classification (SIC) codes, as defined in 327 IAC 5, up to four (4) digits, that best represent the principal products or activities provided by the facility.
- (3) The person's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.
- (4) The latitude and longitude of the approximate center of the facility to the nearest fifteen (15) seconds, or the nearest quarter section (if the section, township, and range are provided) in which the facility is located.
- (5) The name of receiving water, or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.
- (6) A description of how the facility complies with the applicability requirements of the general permit rule.
- (7) Any additional NOI letter information required by the applicable general permit rule.
- (8) The NOI letter must be signed by a person meeting the signatory requirements in 327 IAC 15-4-3(g).

(*Water Pollution Control Board; 327 IAC 15-3-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 7. 327 IAC 15-3-3, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-3-3 Deadline for submittal of a NOI letter; additional requirements

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 3. (a) Any person proposing a new discharge that will be subject to a general permit rule, except for construction activity under 327 IAC 15-5 **and municipal separate storm sewer system discharges under 327 IAC 15-13**, shall submit a NOI letter and additional information as required by the applicable general permit rule at least one hundred eighty (180) days before the date on which the discharge is to commence unless permission for a later date has been granted by the commissioner or is established in the applicable general permit rule. A construction activity NOI letter shall be submitted in accordance with 327 IAC 15-5-6. **A municipal separate storm sewer system NOI letter shall be submitted in accordance with 327 IAC 15-13-6 and 327 IAC 15-13-7.**

(b) Any person operating coverage under a general permit rule with an existing discharge shall submit a NOI letter within ninety (90) days of the effective date of the applicable general permit rule, unless permission for a later date has been granted by the commissioner or is established in the applicable general permit rule. (*Water Pollution Control Board; 327 IAC 15-3-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 19; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 898; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 8. 327 IAC 15-5-1, AS READOPTED AT 24 IR 1818, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-1 Purpose

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 1. The purpose of this rule is to ~~reduce~~ **minimize** pollutants principally ~~sediment as a result of soil erosion; in storm water discharges into surface waters of the state from sites where construction activity disturbs five (5) acres or more of the site. However, in contemplation of recent federal court decisions, persons with sites greater than one (1) acre but less than five (5) acres are invited to comply with this rule as well: from construction and land disturbing activities and the resulting completed project.~~ (*Water Pollution Control Board; 327 IAC 15-5-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; errata, 16 IR 898; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 9. 327 IAC 15-5-2, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-2 Applicability of general permit rules

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 2. (a) The requirements under this rule apply to all persons who:

- (1) do not obtain an individual NPDES permit under 327 IAC 15-2-6;
- (2) meet the general permit rule applicability requirements under 327 IAC 15-2-3; and
- (3) are involved in construction ~~which includes clearing, grading, excavation, and other land disturbing activities; or land disturbing activity~~, except operations that result in the disturbance of less than ~~five (5) acres~~ **one (1) acre** of total land area **as determined under section 5.5 of this rule** and which are not part of a larger common plan of development or sale.

(b) **In general, it will be the responsibility of the operator to ensure compliance with this rule. However, all persons engaging in construction and land disturbing activities on a site meeting the**

applicability requirements must comply with the requirements of this rule.

(c) **For off-site construction and land disturbing activities that will provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project, these off-site areas must be considered as part of the permitted project, when the activity is under the control of the operator of the permitted project.**

(d) **For an individual lot within a site permitted under this rule, where land disturbance is expected to be one (1) acre or more, the new operator must file their own general permit as required by this rule.**

(e) **An individual lot disturbing less than one (1) acre, within a permitted site is considered part of the permitted project and must comply with the provisions and requirements of the plan developed by the operator and section 9 of this rule. Submittal of a general permit is not required for each individual lot.** (*Water Pollution Control Board; 327 IAC 15-5-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 10. 327 IAC 15-5-3, AS READOPTED AT 24 IR 518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-3 General permit rule boundary

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-18-4

Sec. 3. ~~Facilities existing This general permit covers all lands within the boundaries of the state of Indiana. affected by this rule are regulated under this rule.~~ (*Water Pollution Control Board; 327 IAC 15-5-3; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 11. 327 IAC 15-5-4, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-4 Definitions

Authority: IC 13-14-8; IC 13-14-9; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3
Affected: IC 13-11-2; IC 13-12-3-1; IC 13-18-1; IC 14-32; IC 14-34

Sec. 4. In addition to the definitions contained in ~~IC 13-7-1, IC 13-13-1-5, IC 13-11-2, 327 IAC 1, 327 IAC 5, and 327 IAC 15-1-2~~, the following definitions apply throughout this rule:

(1) ~~“Agricultural land use”~~ **conservation practices”** means ~~use of land for the production of animal or plant life, including forestry, pasturing or yarding of livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption.~~ **practices that are constructed on agricultural land for the purposes of controlling soil erosion and sedimentation. These practices include waterways, sediment basins, terraces, and grade stabilization structures.**

(2) **“Agricultural land disturbing activity”** means tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile. For purposes of this rule, the term does not include land disturbing activities for the construction of facilities, such as residences, barns, buildings to house livestock, roads, forest land management activities (such as infrastructure roads, skid trails, staging areas, and stream

crossings), agricultural waste lagoons and facilities, lakes and ponds, wetlands, and other infrastructure.

(3) "Construction activity" means all activities associated with a construction project, including land disturbance, grading, and the construction of infrastructure and structures.

(4) "Construction plan" means a representation of a construction site and all activities associated with the project. The plan includes the location of the project, buildings, and infrastructure, grading activities, schedules for implementation and other pertinent information related to the project. A storm water pollution prevention plan is a part of the construction plan.

(5) "Developer" means:

(A) any person financially responsible for construction activity; or

(B) an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

(6) "DNR, DSC" means the division of soil conservation of the department of natural resources.

(7) "Erosion" means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

(8) "Erosion and sediment control measure" means a practice, or a combination of practices, to control erosion and resulting sedimentation and/or off-site damages.

(9) "Erosion control plan" means a written description and site plan of pertinent information concerning erosion control measures.

(10) "Erosion and sediment control system" means a combination of appropriate erosion and sediment control measures that address the deposition of sediment by reducing sediment at the source as well as at the point of discharge from the site.

(11) "First flush" means the delivery of a disproportionately large load of pollutants during the early part of storms due to rapid run-off of accumulated pollutants.

(12) "Fugitive dust" means the generation of particulate matter to the extent that some portion of the material escapes beyond the property line or boundaries of the property, right-of-way, or easement on which the source is located.

(13) "Impervious surface" means surfaces, such as pavement and rooftops, which prevent the infiltration of storm water into the soil.

(14) "Individual building lot" means a single parcel of land within a multi-parcel development.

(15) "Land disturbing activity" means any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading. In the context of this rule, agricultural land disturbing activities, coal mining activities permitted by the DNR under IC 13-14-1, and active landfills permitted by the Indiana department of environmental management where the permit requires soil erosion control are excluded. For purposes of this rule, the term does not include the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(A) Agricultural land disturbing activities.

(B) Landfills that have been issued a certification of closure under 329 IAC 10.

(C) Coal mining activities permitted under IC 14-34.

(D) Landfills that are accepting waste pursuant to a permit issued by the department under 329 IAC 10, except that expansions of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary is not considered part of the active landfill and is subject to this rule until the cell is certified to take waste.

(16) "Larger common plan of development or sale" means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased construction by a single entity for its own use.

(17) "Municipal separate storm sewer system" or "MS4" means an area designated by the department under 327 IAC 15-13.

(18) "MS4 area" means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit.

(19) "MS4 operator" means the person responsible for development, implementation, or enforcement of the minimum control measures for a designated MS4 area.

(20) "Natural and cultural resources" means resources that are identified as unique, endangered, or high quality natural communities of plant, animal or insect species, unique natural habitats, and areas of historical and archeological value.

(21) "Nonagricultural land use" means commercial use of land for the manufacturing and wholesale or retail sale of goods or services; residential or institutional use of land intended primarily to shelter people; highway use of land including lanes, alleys, and streets; and other land uses not included in agricultural land use.

(22) "Operator" means the person required to submit the NOI letter under this article; and required to comply with the terms of this rule; the following:

(A) A developer.

(B) A person who has financial and operational control of construction or land disturbing activities, and project plans and specifications, including the ability to make modifications to those plans and specifications.

(23) "Peak discharge" means the maximum rate of flow during a storm, usually in reference to a specific design storm event.

(24) "Permanent stabilization" means the establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent nonerosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

(25) "Phasing of construction" means sequential development of smaller portions of a large project, stabilizing each portion before beginning land disturbance on subsequent portions, to minimize exposure of disturbed land to erosion.

(26) "Qualified professional" means an individual that has experience and training in the principles and application of storm water quality, including erosion and sediment control. These individuals include certified professionals in erosion and sediment control (CPESC), engineers, surveyors, and landscape architects.

(27) "Sedimentation" means the settling and accumulation of unconsolidated material carried by storm water run-off.

(28) (26) "Site" means the entire area included in the legal description of the land on which construction or land-disturbing activity is to be performed. Individual lots, where disturbance is less than one (1) acre, within the site are considered part of the permitted project and must comply with the storm water pollution prevention plan developed by the operator. For purposes of this rule, strip developments will be considered as one (1) site and must comply with this rule unless the total combined disturbance on all lots is less than one (1) acre and is not part of a larger common plan of development or sale.

(27) "Soil and Water Conservation District" or "SWCD" means a political subdivision established under IC 14-32.

(28) "Stable construction entrance" means a stabilized stone surface at a point of ingress or egress to a construction site, for the purpose of capturing and detaining sediment carried by tires or tracks of vehicles or other equipment entering or exiting the site.

(29) "Storm water pollution prevention plan" means a plan developed to minimize the impact of storm water pollutants, including fugitive dust and storm water run-off, resulting from construction and land disturbing activities.

(30) "Storm water quality measure" means a practice, or a combination of practices, to control or minimize pollutants associated with storm water run-off.

(31) "Strip development" means a multi-lot project where building lots front on an existing road.

(32) "Subdivision" means any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

(33) "Temporary stabilization" means the covering of soil to ensure its resistance to erosion, sliding, or other movement. The term includes vegetative cover, anchored mulch, or other nonerosive material applied at a uniform density of seventy percent (70%) across the disturbed area.

(34) "Tracking" means soil material that is transported from one (1) location to another by tires and or tracks of vehicles or other equipment and then deposited.

(Water Pollution Control Board; 327 IAC 15-5-4; filed Aug 31, 1992, 5:00 p.m.: 16 IR 23; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 12. 327 IAC 15-5-5, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-5 Additional notice of intent letter requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 5. (a) In addition to the notice of intent (NOI) letter requirements under 327 IAC 15-3, the following information must be submitted by the operator with a NOI letter under this rule:

(1) A brief description of the construction project, including, but not limited to, a statement of the total acreage of the site.

(2) Estimated ~~timetable~~ dates for initiation and completion of construction or land disturbing activities. ~~and installation of erosion control measures.~~

(3) The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and the nearest quarter section, township, range, and civil township in which the project is located.

(4) Total impervious surface area, in square feet, of the final project including structures, roads and parking lots, and other similar improvements.

~~(3) Statement of~~ (5) The number of acres to be involved in the construction or land disturbing activities.

(6) Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction or land disturbing activity is to commence.

(7) A list of all MS4 areas within which the project occurs.

~~(4)~~ (8) A written certification by the operator that:

(A) the ~~erosion control~~ storm water quality measures included in the ~~erosion control~~ construction plan comply with the requirements under sections 7, ~~and~~ 8, ~~and~~ 11 of this rule and that the

storm water pollution prevention plan complies with all applicable federal, state, ~~county, or~~ and local erosion control storm water requirements;

(B) the ~~erosion control~~ measures required by section 8 of this rule will be implemented in accordance with the approved storm water pollution prevention plan;

(C) ~~verification that an appropriate state, county, or local erosion control authority and if the projected land disturbance is five (5) acres or more, the applicable soil and water conservation district, office have or other entity designated by the department, has been sent a copy of the construction plan for review; and~~

(D) storm water quality measures beyond those specified in the storm water pollution prevention plan will be implemented during the life of the permit if necessary to comply with section 8 of this rule; and

~~(E) verification that~~ (E) implementation of the erosion control plan storm water quality measures will be conducted supervised by personnel trained in erosion control practices: qualified professionals. (5) Proof of publication in a newspaper of general circulation in the affected area that notified the public that a construction under this rule is to commence.

(b) The commissioner or the commissioner's designated representative shall compare the location of the project to all applicable natural and cultural resource information sources to verify whether potential impacts are present. If potential impacts are present, additional information may be requested to further evaluate the site, and modifications to the project may be required. (Water Pollution Control Board; 327 IAC 15-5-5; filed Aug 31, 1992, 5:00 p.m.: 16 IR 24; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 13. 327 IAC 15-5-5.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-5-5.5 Land disturbance calculation

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 5.5. The area of land disturbance for a project shall be calculated by adding the total area of land disturbance for public or common improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:

(1) For a single-family residential project where the lots are one-half (0.5) acre or more, and less than one (1) acre in size, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.

(2) For a single-family residential project where the lots are less than one-half (0.5) acre in size, the total lot must be calculated as being disturbed.

(3) To calculate lot disturbance on all other projects, one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.

(Water Pollution Control Board; 327 IAC 15-5-5.5)

SECTION 14. 327 IAC 15-5-6, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-6 Submittal of a NOI letter and construction plans

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-18-1

Sec. 6. (a) All information required under 327 IAC 15-3 and section 5 of this rule shall be submitted to the commissioner prior to the initiation of land disturbing activities at the site. The operator shall also submit additional project information as required by subsections (b) through (e).

(b) For a project where the proposed land disturbance is five (5) acres or more as determined under section 5.5 of this rule, the following requirements must be met:

(1) The following information must be submitted:

(A) A copy of the completed NOI letter must be submitted to all SWCDs, or other entity designated by the department, where the construction and land disturbing activities are to occur.

(B) A construction plan, including the storm water pollution prevention plan, which meets the requirements of section 7 of this rule, must be submitted a minimum of sixty (60) days prior to the proposed initiation of any land disturbing activities. The plan must be submitted to the appropriate SWCD, or other entity designated by the department. If the land disturbing activity will occur in more than one (1) SWCD, the operator may request a single coordinated review in accordance with subsection (e)(3).

(2) Following receipt of the construction plan under subdivision (1), the SWCD, DNR, DSC technical representative, or other entity designated by the department shall review the contents of the construction plan. If the plan is determined to be deficient, the reviewing entity may require modifications, terms, and conditions as necessary to approve the plan.

(3) A plan submitted under subdivision (1) will be approved if the contents meet the minimum standards for compliance with this rule. The plan must be approved by a technical representative of the SWCD, DNR, DSC, or other entity designated by the department prior to the initiation of any land disturbing activity.

(c) For a project where land disturbance is equal to or greater than one (1) acre, but less than five (5) acres as determined under section 5.5 of this rule, the following requirements must be met:

(1) The following information must be submitted:

(A) A copy of the completed NOI letter must be submitted to all SWCDs or other designated entity or entities where the land disturbing activity is to occur.

(B) A construction plan, including the storm water pollution prevention plan, which meets the requirements of sections 7, 8, 9, and 11 of this rule, must be submitted a minimum of sixty (60) days prior to the proposed initiation of any land disturbing activities. The plan must be submitted to the appropriate SWCD, or other entity designated by the department. If the land disturbing activity will occur in more than one (1) SWCD, the operator may request a single coordinated review in accordance with subsection (e)(3). Upon request of the commissioner or the commissioner's designated representative, the operator must make the plan available for review within forty-eight (48) hours.

(2) Upon review, if the plan is determined to be deficient, the SWCD, the DNR, DSC, or other designated entity may require modifications, terms, and conditions as necessary to approve the plan or to initiate changes in on-site operations.

(3) A plan submitted under subdivision (1) will be approved if the contents meet the minimum standards for compliance with this rule. The plan must be approved by a technical representative of the SWCD, the DNR, DSC, or other entity designated by

the department prior to the initiation of any land disturbing activity.

(d) For a project where construction or land disturbance occur inside an MS4 area:

(1) a copy of the completed NOI letter must be submitted to the appropriate MS4 operators; and

(2) the operator must comply with all appropriate ordinances and regulations within the MS4 area related to storm water discharges.

(e) For a project that will occur in more than one (1) jurisdiction, such as a SWCD or MS4 area, the following must be met:

(1) Operators of projects occurring in multiple MS4 areas, but not in nondesignated areas, shall submit the information required in subsection (d) to each appropriate MS4 operator.

(2) Operators of projects occurring in one (1) or more MS4 areas and also in nondesignated areas shall submit the information required in subsections (b) through (d) to all appropriate MS4 operators, and the SWCD or other entity designated by the department.

(3) Operators of projects occurring in multiple nondesignated areas, but not occurring within an MS4 area, may request a single coordinated review through the DNR, DSC office at the following address: 402 West Washington Street, Room W265, Indianapolis, Indiana 46204. Upon acceptance of the request, the DNR, DSC will coordinate the plan review with the SWCDs and other entities designated by the department.

(Water Pollution Control Board; 327 IAC 15-5-6; filed Aug 31, 1992, 5:00 p.m.: 16 IR 24; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 15. 327 IAC 15-5-6.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-5-6.5 Requirements for construction plans

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-18-1

Sec. 6.5. (a) An operator shall develop a set of construction plans. Storm water quality measures included in the plan must achieve the minimum site requirements as specified in section 8 of this rule and meet the design criteria, standards, and specifications established in the Indiana Stormwater Quality Manual* or similar guidance documents approved for use by IDEM and DNR.

(b) The construction plans must include the following:

(1) Project narrative and supporting documents, including the following information:

(A) An index indicating the location, in the construction plans, of all required items in section 7(b)(1) through 7(b)(8) of this rule.

(B) Copy of the completed notice of intent (NOI) letter for the project.

(C) Description of the nature and purpose of the project.

(D) Legal description of the property. The description should be to the nearest quarter section, township and range, and include the civil township.

(E) Soil properties, characteristics, limitations, and hazards that are associated with the site and the development of the project and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.

(F) General construction sequence of how the project will be built, including phases of the project.

(G) Hydrologic Unit Code (14 Digit).

(H) A reduced plat or site map showing the lot numbers, lot boundaries, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than eleven (11) inches by seventeen (17) inches for all phases or sections of the property.

(I) Identification of any other state or federal permits that are required for activities associated with the operator's project.

(2) Vicinity map depicting the site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS Topographic quadrangle map, or county or municipal road map.

(3) An existing site layout that must include the following information:

(A) Location and name of all wetlands, lakes, and water courses on or adjacent to the project.

(B) Location of all existing structures on the site.

(C) One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exist.

(D) Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey, or an equivalent publication, or as determined by a soil scientist. A soil legend must be included with the soil map.

(E) Identification and delineation of vegetative cover such as grass, weeds, brush, and trees.

(F) Land use of all adjacent properties.

(G) Existing topography at a contour interval appropriate to indicate drainage patterns.

(4) Final site layout, including the following information:

(A) Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.

(B) One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exist.

(C) Proposed final topography, at a contour interval appropriate to indicate drainage patterns.

(5) A grading plan, including the following information:

(A) Delineation of all proposed land disturbing activities, including off-site construction activities that will provide services to this project.

(B) Location of all soil stockpiles and borrow areas.

(C) Information regarding any off-site borrow or disposal areas, if applicable.

(D) Existing and proposed topographic contours.

(6) A drainage plan, including the following information:

(A) An estimate of the peak discharge, based on the ten (10) year storm event, of the site for both preconstruction and postconstruction conditions.

(B) Existing and final grades, including dividing lines and direction of flow for all drainage areas located within the project.

(C) Location, size, dimensions and design calculations of all storm water drainage systems such as culverts, storm sewers, and conveyance channels.

(D) Potential areas where storm water may enter groundwater, such as abandoned wells or sinkholes. Please note if none exist.

(E) Locations of specific points where storm water discharge will leave the site.

(F) Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.

(G) Features such as permanent retention or detention

facilities, including existing or manmade wetlands, used for the purpose of storm water management. All design calculations for these facilities must be included.

(7) The construction activity storm water pollution prevention plan. The plan must be designed to meet or exceed the requirements of sections 8 and 9 of this rule and must include the following:

(A) Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures.

(B) Design calculations of all structural measures including channels, basins and traps.

(C) Temporary stabilization plans and sequence of implementation.

(D) Permanent stabilization plans and sequence of implementation.

(E) Temporary and permanent stabilization plans shall include the following:

(i) Specifications and application rates for soil amendments and seed mixtures.

(ii) Method of seeding.

(iii) The type, application rate, and anchoring method for mulch.

(F) Construction sequence describing the relationship between implementation of storm water quality measures and stages of land disturbing activities and construction.

(G) Quality assurance plan procedures.

(H) A description of potential pollutant sources associated with the construction and land disturbing activities, which may reasonably be expected to add a significant amount of pollutants to storm water discharges.

(I) Material handling and storage, spill prevention, and spill response procedures. Response procedures must be in accordance with 327 IAC 2-6.1.

(8) The post construction storm water pollution prevention plan. The plan must include the following information:

(A) A description of potential pollutant sources from the proposed land use, which may reasonably be expected to add a significant amount of pollutants to storm water discharges.

(B) Location, dimensions, detailed specifications, and construction details of all postconstruction storm water quality measures.

(C) A description of measures that will be installed to control pollutants in storm water discharges that will occur after construction and land disturbing operations have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, and storm water retention and detention ponds.

(D) A sequence describing when each postconstruction storm water quality measure will be installed.

(E) Storm water quality measures that will remove or minimize pollutants from the first flush of storm water run-off.

(F) Storm water quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat and promote groundwater recharge.

(c) The SWCD or the DNR, DSC representative, or other designated entity may require modification to the construction plan after it has been approved, if it is determined that changes are necessary due to site conditions or project design changes. Revised plans must be submitted to the appropriate entity within twenty-one (21) calendar days of a request for a modification.

*Copies of the Indiana Storm Water Quality Manual referenced

in this section may be obtained from the Division of Soil Conservation, Indiana Department of Natural Resources, 402 West Washington Street, Room W265, Indianapolis, Indiana 46204-2739. (*Water Pollution Control Board; 327 IAC 15-5-6.5*)

SECTION 16. 327 IAC 15-5-7, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-7 General requirements for storm water quality control

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-18-1

Sec. 7. (a) The operator shall develop an erosion control construction storm water pollution prevention plan in accordance with the requirements under this section: All storm water quality measures and erosion and sediment controls necessary to comply with this rule must be implemented in accordance with the approved plan and meet the design criteria, standards, and specifications as established in the "Indiana Stormwater Quality Manual"* or similar guidance documents approved for use by IDEM and DNR.

(b) An operator shall meet or exceed the following requirements shall be met on all sites: during the period when active land disturbing activities occur:

(1) Sediment-laden water which otherwise would flow from the site shall be detained ~~treated~~ by erosion and sediment control practices measures appropriate to minimize sedimentation. in the receiving stream. No storm water shall be discharged from the site in a manner causing erosion in the receiving channel at the point of discharge.

(2) Appropriate measures shall be ~~taken~~ implemented by the operator to minimize or eliminate wastes or unused building materials, including, but not limited to, garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a site by run-off or wind. Proper disposal or management of all wastes and unused building materials, appropriate to the nature of the waste or material, is required. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.

(3) Sediment being tracked from a site onto public or private roadways shall be minimized. This can be accomplished initially by a temporary gravel construction entrance in addition to a well-planned layout of roads, access drives, and parking areas of sufficient width and length, or other appropriate measures. A stable construction entrance shall be provided at all points of ingress and egress to the construction site.

(4) Public or private roadways shall be kept cleared of free from accumulated sediment and tracked soil by installing appropriate erosion and sediment control measures. Bulk clearing of accumulated sediment shall not include flushing the area with water. Cleared sediment shall be returned to the point of likely origin or other suitable location: disposed of in a manner that is in accordance with all applicable statutes and regulations.

(5) All on-site storm drain inlets shall be protected against sedimentation with straw bales, filter fabric, or equivalent barriers meeting accepted design criteria, standards, and specification for that purpose.

(6) The following items apply during the time the construction activity is taking place:

(A) Storm water drainage from adjacent areas that naturally pass

through the site shall be controlled by diverting it around disturbed areas. Alternatively, the existing channel must be protected and/or improved to prevent erosion or sedimentation from occurring.

(B) Run-off from a disturbed area shall be controlled by one (1) or more of the following measures:

(i) Except as prevented by inclement weather conditions or other circumstances beyond the control of the operator, appropriate vegetative practices will be initiated within seven (7) days of the last land disturbing activity at the site regulated by this rule. Appropriate vegetative practices include, but are not limited to; seeding, sodding, mulching, covering, or by other equivalent erosion control measures.

(ii) The erosion control plan shall be implemented on disturbed areas within the construction site. The plan shall include erosion control measures as appropriate, such as, but not limited to; the following:

(AA) Sediment detention basins.

(BB) Sediment control practices, such as filter strips, diversions, straw bales, filter fences, inlet protection measures, slope minimization, phased construction, maximizing tree coverage, temporary and permanent seeding of vegetation, mulching, and sodding.

All measures involving erosion control practices shall be designed and installed under the guidance of a qualified professional experienced in erosion control and following the specifications and criteria under this subsection. All other nonengineered erosion control measures involving vegetation should be installed according to accepted specifications and criteria under this subsection.

(5) Storm water run-off leaving a site must be discharged in a manner that does not cause or contribute to erosion or sedimentation or a violation of 327 IAC 2-1-6.

(6) The operator shall post a notice near the main entrance of the construction site. The notice must be maintained in a legible condition and contain the following information:

(A) Copy of the completed notice of intent (NOI) letter and the NPDES permit number, where applicable.

(B) Name, telephone number, and address of a local contact person.

(C) Location of the construction plan if the site does not have an on-site location to store the plan.

(D) If the construction project is a linear project, such as a pipeline or highway, the notice must be placed in a publicly accessible location near where the currently active construction is underway.

(7) This permit and posting of the notice, under subdivision (6) does not provide the public with any right to trespass on a construction site for any reason nor does it require that the operator allow members of the public access to the construction site.

(8) The storm water pollution prevention plan shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for this project. The operator or the operator's contractor shall implement, in accordance with this rule, all measures necessary to adequately prevent storm water pollution.

(9) The operator shall conduct a preconstruction meeting to inform all contractors and subcontractors who will be involved in the implementation of the project of the terms and conditions of this general permit that authorizes the discharge of storm water from the site. Before conducting any service at the site all contractors and subcontractors shall understand the conditions

and standards of the construction plan and the schedule for proposed implementation.

(A) For a project disturbing five (5) acres or more, as determined under section 5.5 of this rule, the operator is required to provide meeting date, time, and location to the individual or individuals who reviewed the plan a minimum of two (2) weeks in advance of the meeting.

(B) For a project disturbing one (1) acre or more and less than five (5) acres, as determined under section 5.5 of this rule, the operator is required to provide meeting date, time, and location to the local SWCD, the DNR, DSC, or other designated entity, a minimum of two (2) weeks in advance of the meeting.

(C) Within seven (7) calendar days immediately following the preconstruction meeting, the operator shall provide written certification containing the names, addresses, telephone numbers, and affiliation of those attending the meeting to the SWCD, the DNR, DSC, or other designated entity.

(10) Phasing of construction or land disturbing activities, shall be used, where possible, to minimize disturbance of large areas.

(11) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

(12) All storm water quality measures must be designed and installed under the guidance of a qualified professional.

(13) Collected run-off leaving a construction site must be discharged directly into a well-defined, stable receiving channel.

(14) Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

(15) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.

(16) Surface stabilization of all bare or thinly vegetated areas to be left idle for fifteen (15) days or more must be temporarily or permanently stabilized to reduce erosion potential. Appropriate stabilization includes seeding, anchored mulch, or the application of nonerosive cover.

(17) Generation of fugitive dust and wind-blown soil shall be minimized such that it is not visibly crossing the property line or boundaries of the property, right-of-way, or easement on which the source is located. Every reasonable precaution must be taken to minimize fugitive dust emissions and wind-blown soil in accordance with 326 IAC 6.

(18) During the period of construction and land disturbing activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.

(19) A quality assurance program that includes the following must be implemented:

(A) A qualified professional shall perform a written evaluation of the site following each measurable rainfall in a twenty-four (24) hour period and at a minimum of one (1) time per week during periods of no rainfall. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly, and identify additional measures necessary to remain in compliance with all applicable statutes and regulations.

(B) Written evaluation reports must include the name of the individual performing the evaluation, date of the evaluation, problems identified at the site, and details of corrective actions recommended and completed.

(C) Maintain a record of all evaluation reports for the site.

Reports must be made available to the inspecting authority within forty-eight (48) hours of a request for inspection.

(20) Proper storage and handling of materials such as fuels or hazardous wastes, and spill prevention and cleanup measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

(c) During the period of construction activity at a site, all erosion control measures necessary to meet the requirements of this rule shall be maintained by the operator:

(d) All erosion control measures required to comply with this rule shall meet the design criteria, standards, and specifications for erosion control measures established by the department in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the division of soil conservation, Indiana department of natural resources and the Field Office Technical Guide from the Soil Conservation Service. The erosion control plan shall include, but is not limited to, the following:

(1) A map of the site in adequate detail to show the site and adjacent areas, including the following:

(A) Site boundaries and adjacent lands which accurately portray the site location:

(B) Lakes, streams, channels, ditches, wetlands, and other water courses on and adjacent to the site:

(C) One hundred (100) year floodplains, floodway fringes, and floodways:

(D) Location of the predominant soil types which may be determined by the United States Department of Agriculture, SCS County Soil Survey, or an equivalent publication, or as determined by a certified professional soil scientist:

(E) Location and delineation of vegetative cover such as grass, weeds, brush, and trees:

(F) Location and approximate dimensions of storm water drainage systems and natural drainage patterns on, and immediately adjacent to, the site:

(G) Locations and approximate dimensions of utilities, structures, roads, highways, and paving:

(H) Site topography, both existing and planned, at a contour interval appropriate to indicate drainage patterns:

(I) Potential areas where point source discharges of storm water may enter ground water, if any:

(2) A plan of final site conditions on the same scale as the existing site map showing the site changes:

(3) A site construction plan shall include, but is not limited to, the following:

(A) Locations and approximate dimensions of all proposed land disturbing activities:

(B) Potential locations of soil stockpiles:

(C) Locations and approximate dimensions of all erosion control measures necessary to meet the requirements of this rule:

(D) Schedule of the anticipated initiation and completion dates of each land disturbing activity, including the installation of erosion control measures needed to meet the requirements of this rule:

(E) Provisions, including a schedule, for maintenance of the erosion control measures during construction:

(F) Where feasible, preserve vegetation that exists on the site prior to the initiation of land disturbing activities:

*Copies of the Indiana Storm Water Quality Manual referenced in this section may be obtained from the Division of Soil Conservation, Indiana Department of Natural Resources, 402 West Washington Street, Room W265, Indianapolis, Indiana 46204-2739. (Water

IC 13-14-9 Notices

Pollution Control Board; 327 IAC 15-5-7; filed Aug 31, 1992, 5:00 p.m.:16 IR 24; readopted filed Jan 10, 2001, 3:23 p.m.:24 IR 1518)

SECTION 17. 327 IAC 15-5-7.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-5-7.5 General requirements for individual building lots within a permitted project

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec.7.5. (a) All storm water quality measures, including erosion and sediment control, necessary to comply with this rule shall be implemented in accordance with the approved plan and meet the design criteria, standards, and specifications as established in the "Indiana Stormwater Quality Manual"* or similar guidance documents approved for use by IDEM and DNR.

(b) Provisions for erosion and sediment control on individual building lots regulated under the original permit of an operator must include the following requirements:

- (1) The builder, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
- (2) Installation and maintenance of a stable construction entrance.
- (3) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- (4) Sediment discharge and tracking from each lot must be minimized throughout construction on the lot until permanent stabilization has been achieved.
- (5) Daily cleanup of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be disposed of in a manner that is in compliance with all applicable statutes and regulations.
- (6) Adjacent lots disturbed by the builder or subcontractors must be repaired and stabilized with temporary or permanent vegetation.

*Copies of the Indiana Storm Water Quality Manual referenced in this section may be obtained from the Division of Soil Conservation, Indiana Department of Natural Resources, 402 West Washington Street, Room W265, Indianapolis, Indiana 46204-2739. (*Water Pollution Control Board; 327 IAC 15-5-7.5*)

SECTION 18. 327 IAC 15-5-8, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-8 Project termination

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 8. (a) The operator shall plan an orderly and timely termination of the construction or land disturbing activities, ~~which shall include the following:~~

- ~~(1) Allowing the installation of utility lines on the site, whenever practicable, prior to final land grading, seeding, and mulching of the site;~~
- ~~(2) Implementing erosion control measures which are to remain on the site;~~

(b) The commissioner may, subsequent to termination of a project, inspect the site to evaluate the adequacy of the remaining erosion control measures: including the implementation of storm water quality measures which are to remain on the site.

(b) The operator shall submit a notice of termination (NOT) to the SWCD or other designated entity in accordance with the following:

(1) Except as provided in subdivision (2), the operator shall submit a NOT when the following conditions have been met:

(A) All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.

(B) All temporary erosion and sediment control measures have been removed.

The NOT must contain a verified statement that each of the conditions in this subdivision has been met.

(2) The operator may submit an NOT to obtain early release from compliance with this rule if the following conditions are met:

(A) The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.

(B) A map of the site clearly identifying all remaining undeveloped lots is attached to the NOT. The map must be accompanied by a list of names and addresses of owners or builders of all undeveloped lots.

(C) All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.

(D) The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

(E) All permanent storm water quality measures have been implemented and are operational.

(c) Maintenance of the remaining erosion control measures shall be the responsibility of the occupier of the property after the operator has terminated land disturbing activities. Following acceptance of the NOT and written approval for early release under subsection (b), the operator shall notify all current owners and all subsequent owner or owners of the remaining undeveloped acreage and acreage under construction that they are responsible for complying with section 9 of this rule. The remaining owners do not need to submit a NOI or NOT. The notice must contain a verified statement that each of the conditions in subsection(b)(2) have been met. The notice must also inform the owners of the requirements to:

- (1) install and maintain appropriate measures to prevent sediment from leaving the property under this rule; and
- (2) maintain all erosion and sediment control measures that are to remain on-site under this rule.

(d) The SWCD, DNR, DSC, other entity designated by the department, or the department may inspect the site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT requirements. If the inspecting entity finds that the operator has properly filed a NOT, the entity shall forward the NOT to the department. Upon receipt of the verified NOT by the department, and receipt of written approval from the department, the developer shall no longer be responsible for compliance with this rule.

(e) After a verified NOT has been submitted for a site, maintenance of the remaining storm water quality measures shall be the responsibility of the owner or occupier of the property. (*Water Pollution Control Board; 327 IAC 15-5-8; filed Aug 31, 1992, 5:00 p.m.: 16 IR 25; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 19. 327 IAC 15-5-10, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-5-10 Inspection and enforcement

Authority: IC 13-13-5-2; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2; IC 13-18-3-3; IC 13-18-3-13; IC 13-18-4-1; IC 13-18-4-3
Affected: IC 13-14-10; IC 13-15-7; IC 13-18-3; IC 13-18-4; IC 13-30

Sec. 10. (a) The department or its designated representative may inspect any site involved in **construction** or land disturbing activities regulated by this rule at reasonable times. ~~The erosion control plan must be readily accessible for review at the time of the inspection. The department or its designated representative may require the operator to install appropriate measures beyond those specified in the storm water pollution prevention plan.~~

(b) All persons engaging in **construction** or land disturbing **activity** activities on a site shall be responsible for complying with the ~~soil erosion control storm water pollution prevention~~ plan for that site and the provisions of this rule.

(c) The department shall investigate potential violations of this rule to determine which person may be responsible for the violation. The department shall, if appropriate, consider public records of ownership, building permits issued by local units of government, and other relevant information, which may include site inspections, ~~soil erosion control storm water pollution prevention~~ plans, notices of intent, and other information related to the specific facts and circumstances of the potential violation. Any person causing or contributing to a violation of any provisions of this rule shall be subject to enforcement and penalty under IC 13-14-10, IC 13-15-7, and IC 13-30.

(d) If remaining ~~erosion control storm water quality~~ measures are not properly maintained by the person occupying or owning the property, the department may pursue enforcement against that person for correction of deficiencies under 327 IAC 15-1-4.

(e) **Construction plans and supporting documentation associated with the quality assurance plan must be made available to the department or its designated representatives within forty-eight (48) hours of such a request.** (*Water Pollution Control Board; 327 IAC 15-5-10; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; filed Mar 23, 2000, 4:15 p.m.: 23 IR 1912; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 20. 327 IAC 15-5-12 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-5-12 Duration of coverage

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 12. A permit issued under this rule is granted by the commissioner for a period of five (5) years from the date coverage commences. To obtain renewal of coverage under this rule, the information required under 327 IAC 15-3 and sections 5 and 6 of this rule must be submitted to the commissioner ninety (90) days prior to the termination of coverage under this NPDES general permit rule, unless the commissioner determines that a later date is acceptable. (*Water Pollution Control Board; 327 IAC 15-5-12*)

SECTION 21. 327 IAC 15-6-1, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

Rule 6. Storm Water Discharges Exposed to Industrial Activity

327 IAC 15-6-1 Purpose

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 1. The purpose of this rule is to establish requirements for ~~point source~~ discharges **composed entirely** of storm water ~~associated with that are exposed to industrial activity. Storm water discharges associated with construction activity are regulated under rule 5 of this article only. Permitting of discharges under this rule is contingent upon payment of applicable fees, submittal of a complete notice of intent (NOI) letter, the timely submittal of required compliance information, and written approval of coverage from the commissioner.~~ (*Water Pollution Control Board; 327 IAC 15-6-1; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 22. 327 IAC 15-6-2, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-6-2 Applicability of the general permit rule for storm water discharges exposed to industrial activity

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 2. The requirements under this rule apply to all ~~persons who:~~ **facilities that meet the following requirements:**

- (1) Are not prohibited from regulation under a NPDES general permit rule under 327 IAC 15-2-6.
- (2) Meet the NPDES general permit rule applicability requirements under 327 IAC 15-2-3. ~~and~~
- (3) **Have not received a "no exposure" exclusion from storm water permitting under section 12 of this rule.**
- (4) ~~Have a new or existing point source discharge composed entirely of storm water associated with exposed to industrial activity, except for categories, in effect on February 12, 1992, of or facilities that have storm water effluent guidelines for at least one (1) of their subcategories. These categories include:~~
 - (A) cement manufacturing (40 CFR 411);
 - (B) feedlots (40 CFR 412);
 - (C) fertilizer manufacturing (40 CFR 418);
 - (D) petroleum refining (40 CFR 419);
 - (E) phosphate manufacturing (40 CFR 422);
 - (F) steam electric power generation (40 CFR 423);
 - (G) coal mining (40 CFR 434);
 - (H) mineral mining and processing (40 CFR 436);
 - (I) ore mining and dressing (40 CFR 440); and
 - (J) asphalt (40 CFR 443).

If a facility is classified in one (1) of the subcategories that have storm water effluent guidelines, an individual storm water permit application must be submitted.

(5) **The following categories of facilities are considered to be engaging in industrial activity for purposes of this section:**

- (A) **Facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Chapter I, Subchapter N*.**
- (B) **Facilities classified under the following SIC codes:**
 - (i) 24 (lumber and wood products, except 2434-wood kitchen cabinets).
 - (ii) 26 (paper and allied products, except 265-paperboard containers and boxes and 267).
 - (iii) 28 (chemicals and allied products, except 283-drugs).
 - (iv) 29 (petroleum and coal products).
 - (v) 311 (leather tanning and finishing).
 - (vi) 32 (stone, clay, and glass products, except 323-products of purchased glass).

- (vii) 33 (primary metal industries).
- (viii) 3441 (fabricated structural metal).
- (ix) 373 (ship and boat building and repairing).

(C) Mining operations classified under the following SIC codes:

- (i) 10 (metal mining).
- (ii) 11 (anthracite mining).
- (iii) 12 (coal mining).
- (iv) 13 (oil and gas extraction).
- (v) 14 (nonmetallic minerals, except fuels).

(D) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. 6921).

(E) Landfills, land application sites, open dumps, and transfer stations that receive, or have received, industrial wastes from any of the types of facilities described under this subdivision, including those that are subject to requirements under Subtitle D of the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. 6941)**.

(F) Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including those classified under the following SIC codes:

- (i) 5015 (motor vehicles parts, used).
- (ii) 5093 (scrap and waste materials).

(G) Steam electric power generating facilities. Those facilities identified in this clause that are involved in the processing, handling, or storage of coal and associated byproducts are not subject to this rule and must apply for an individual NPDES storm water permit.

(H) Transportation facilities classified under the following SIC codes which have vehicle maintenance or industrial equipment cleaning areas:

- (i) 40 (railroad transportation).
- (ii) 41 (local and interurban passenger transit).
- (iii) 42 (trucking and warehousing, except 4221-25).
- (iv) 43 (United States Postal Service).
- (v) 44 (water transportation).
- (vi) 45 (transportation by air).

Only those portions of a facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), industrial equipment cleaning operations, or which are otherwise identified under this subsection must comply with this rule. Those portions of the facility that are involved in airport deicing operations are not subject to this rule and must apply for an individual NPDES storm water permit. Transportation facilities identified by SIC code 5171 (petroleum bulk stations and terminals) are not subject to this rule and shall obtain permit coverage under 327 IAC 15-9.

(I) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of one million (1,000,000) gallons per day or more, or that are required to have an approved pretreatment program under 40 CFR 403***. Farmland, domestic gardens, or land used for sludge management where sludge is beneficially reused, and which is not physically located in the confines of the facility or areas that

are in compliance with section 405 of the Clean Water Act (33 U.S.C. 1345)**** are not subject to this rule under this clause.

(J) Facilities classified under the following SIC codes:

- (i) 20 (food and kindred products).
- (ii) 21 (tobacco products).
- (iii) 22 (textile mill products).
- (iv) 23 (apparel and other textile products).
- (v) 2434 (wood kitchen cabinets).
- (vi) 25 (furniture and fixtures).
- (vii) 265 (paperboard containers and boxes).
- (viii) 267 (converted paper and paperboard products).
- (ix) 27 (printing and publishing).
- (x) 283 (drugs).
- (xi) 285 (paints, varnishes, lacquers, enamels, and allied products).
- (xii) 30 (rubber and miscellaneous plastic products).
- (xiii) 31 (leather and leather products, except 311).
- (xiv) 323 (products of purchased glass).
- (xv) 34 (fabricated metal products, except 3441).
- (xvi) 35 (industrial machinery and equipment).
- (xvii) 36 (electronic and other electric equipment).
- (xviii) 37 (transportation equipment, except 373).
- (xix) 38 (instruments and related products).
- (xx) 39 (miscellaneous manufacturing industries).
- (xxi) 4221 (farm product warehousing and storage).
- (xxii) 4222 (refrigerated warehousing and storage).
- (xxiii) 4224 (household goods warehousing and storage).
- (xxiv) 4225 (general warehousing and storage).

(K) Facilities which are involved in the wholesale processing, transfer, or storage of agricultural chemicals, including those facilities that are classified as SIC code 5191 (farm supplies). Only those portions of the facility that are involved in the material handling of agricultural chemicals (chemical fertilizers and pesticides) or which are otherwise identified under this clause are required to comply with this rule.

(L) Facilities engaged in selling gasoline, diesel, or lubricating oils to the trucking industry, where the facility has on-site truck maintenance capabilities and serves as a truck stop. This subdivision includes those facilities classified as SIC code 5541 (gasoline service stations). Automotive service stations, automotive gasoline filling stations, and marine service stations are not subject to this clause.

*Copies of the Code of Federal Regulations (CFR) 40 CFR Chapter I, Subchapter N referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**Copies of the Subtitle D of the Resource Conservation and Recovery Act (RCRA), (42 U.S.C. 6941) referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.

***Copies of the Code of Federal Regulations (CFR) 40 CFR 403 referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana

Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.

****Copies of section 405 of the Clean Water Act (33 U.S.C. 1345) referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Water Pollution Control Board; 327 IAC 15-6-2; filed Aug 31, 1992, 5:00 p.m.: 16 IR 26; errata, 16 IR 751; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 23. 327 IAC 15-6-4, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-6-4 Definitions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 4. In addition to the definitions contained in ~~IC 13-7-1, IC 13-11-5, IC 13-11-2, 327 IAC 5, and 327 IAC 15-1-2~~, the following definitions apply throughout this rule:

(1) "Best management practices" or "BMPs" means the following measures to prevent or reduce the pollution of waters of the state:

- (A) Schedules of activities.
- (B) Prohibitions of practice.
- (C) Treatment requirements.
- (D) Operation and maintenance procedures.
- (E) Use of containment facilities.
- (F) Other management practices.

BMPs may be employed, for example, to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage resulting from manufacturing, commercial, mining, or silvicultural activities.

(2) "Commissioner" means the commissioner of the department of environmental management or the designated agent of the commissioner.

(3) "Concentration" means the mass of any given material present in a unit volume of liquid. Unless otherwise indicated under this rule, concentration values must be expressed in milligrams per liter.

(4) "Department" means the department of environmental management.

(5) "Discharges composed entirely of storm water" means discharges regulated under this rule and composed entirely of storm water; however, the following nonstorm water discharges may be allowed under this rule provided the nonstorm water component of the discharge is in compliance with minimum surface water quality standards established in 327 IAC 2-1-6:

- (A) Discharges from fire fighting activities.
- (B) Fire hydrant flushings.
- (C) Potable water sources including waterline flushings.
- (D) Irrigation drainage.
- (E) Lawn watering.
- (F) Routine external building washdown which does not use detergents.
- (G) Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed, and where detergents are not used.
- (H) Air conditioning condensate.
- (I) Springs.
- (J) Uncontaminated ground water.

(K) Foundation or footing drains where flows are not contaminated with process materials such as solvents.

(6) "Drainage" means the flow patterns of storm water run-off.
(7) "Drainage area" means the surface area draining storm water run-off.

(8) "Facility" means an individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, municipal corporation, city, school city, town, school town, school district, school corporation, county, consolidated unit of government, political subdivision, state agency, or any other legal entity as specific to an industrial location.

(9) "Good housekeeping" means maintaining a clean work environment to reduce or eliminate the potential mobilization of pollutants by storm water.

(10) "Impervious surface" means any surface that prevents storm water from readily infiltrating into the soils.

(11) "Individual NPDES permit" means a NPDES permit issued by the commissioner under 327 IAC 5 to a single facility which contains requirements specific to that individual facility.

(12) "Injection well" means any hole that is deeper than it is wide and through which fluids can enter the ground water. Injection wells are regulated under 40 CFR 145.

(13) "Material handling activity" means the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct, or waste product. The term does not include activities conducted on facility lands separate from the facility's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from the included areas.

~~(14)~~ (14) "Measurable storm event" means a precipitation event which results in a total measured precipitation accumulation equal to, or greater than, one-tenth (0.1) inch of rainfall.

(15) "Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains that is:

- (A) owned or operated by a federal entity or state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288)* that discharges into waters of the state;
- (B) designed or used for collecting or conveying storm water;
- (C) not a combined sewer; and
- (D) not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2**.

(16) "No exposure" means a condition of a facility that exists when all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to precipitation or run-off.

(17) "Nonstructural control measure" means the use of best management practices to reduce or eliminate mobilization of pollutants by storm water.

(18) "Notice of deficiency letter" or "NOD" means a written notification indicating an facility's deficiencies in its NOI letter submittal.

(19) "Notice of intent letter" or "NOI" means a written notification indicating a facility's intention to comply with the terms of this rule in lieu of applying for an individual NPDES permit. An NOI includes information required under section 5 of this rule.

(20) "Notice of sufficiency letter" or "NOS" means a written notification indicating that a facility has sufficiently provided the required information in their NOI letter submittal.

(21) "Notice of termination letter" or "NOT" means a written notification indicating that facility has met the conditions to terminate its permit coverage under this rule.

(22) "Outfall" means a point or area of discharge to a receiving water.

(23) "Pervious surface" means a ground surface that readily allows storm water to infiltrate or percolate into the soils.

(24) "Qualified storm event" means a discharge resulting from a measurable storm event at least seventy-two (72) hours after the previous measurable storm event. The term does not include discharges of snowmelt.

(25) "Qualified environmental professional" means an individual who:

(A) has received a baccalaureate or postgraduate degree in the natural sciences or engineering; and

(B) is trained and experienced in water quality treatment techniques and related fields, as demonstrated by state registration, professional certification, or completion of coursework such that the individual is able to make sound, professional judgments regarding storm water control or treatment, monitoring, pollutant fate and transport, and drainage planning.

(26) "Risk assessment" means an assessment to determine the potential for storm water or facility personnel to be exposed to pollutants, and the facility's subsequent need for additional protection practices and measures.

(27) "Secondary containment" means structures, usually dikes or berms, designed to catch spilled material from tanks or other storage containers, and eliminate or reduce the impact of the spill to the environment.

(28) "SIC code" means the four (4) digit standard industrial classification code applicable to a particular industrial activity in accordance with the Standard Industrial Classification Manual published by the Office of Management and Budget of the Executive Office of the President of the United States.

(29) "Storm water discharge" means the release or flow of storm water from a distinct conveyance or via sheetflow.

(30) "Storm water discharge associated with exposed to industrial activity" means the discharge from any conveyance which is used for collecting and conveying of storm water and which is directly related to that has been exposed to the manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122, in effect on February 12, 1992: facility. For the categories of industries identified in clauses (A) through (I), section 2(5) of this rule, the term includes but is not limited to, the following:

(A) Storm water discharges from industrial plant yards.

(B) Immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts used or created by the facility.

(C) Material handling sites.

(D) Refuse sites.

(E) Sites used for the application or disposal of process wastewaters (as defined at in 40 CFR Part 401). in effect on February 12, 1992).

(F) Sites used for the storage and maintenance of material handling equipment.

(G) Sites used for residual treatment, storage, or disposal.

(H) Shipping and receiving areas.

(I) Manufacturing buildings.

(J) Storage areas (including tank farms) for raw materials, and intermediate and finished products. and

(K) Areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in clause (J); the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities; raw materials; intermediate products; final products; waste materials; byproducts; or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage; loading and unloading; transportation; or conveyance of any raw material; intermediate product; finished product; byproduct; or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities; such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. The following facility types are considered to be involved in industrial activity:

(A) Facilities subject to storm water effluent limitation guidelines; new source performance standards; or toxic pollutant effluent standards under 40 CFR Subchapter N as referenced in 327 IAC 5-12-3 (except facilities with toxic pollutant effluent standards which are exempted under clause (J));

(B) Facilities classified under the following SIC codes:

(i) 24 (lumber and wood products, except 2434-wood kitchen cabinets);

(ii) 26 (paper and allied products, except 265-paperboard containers and boxes and 267);

(iii) 28 (chemicals and allied products, except 283-drugs);

(iv) 29 (petroleum and coal products);

(v) 311 (leather tanning and finishing);

(vi) 32 (stone, clay, and glass products; except 323-products of purchased glass);

(vii) 33 (primary metal industries);

(viii) 3441 (fabricated structural metal);

(ix) 373 (ship and boat building and repairing);

(C) Mining operations classified as SIC codes:

(i) 10 (metal mining);

(ii) 11 (anthracite mining);

(iii) 12 (coal mining);

(iv) 13 (oil and gas extraction); and

(v) 14 (nonmetallic minerals, except fuels);

(D) Hazardous waste treatment, storage, or disposal facilities; including those that are operating under interim status or a permit under Subtitle C of RCRA as defined in IC 13-7-2-15.

(E) Landfills; land application sites; and open dumps that receive; or have received; any industrial wastes (waste that is received from any of the facilities described under this subdivision) including those that are subject to requirements under Subtitle D of RCRA as defined in IC 13-7-2-15.

(F) Facilities involved in the recycling of materials; including metal scrap yards; battery reclaimers; salvage yards; and automobile junkyards; including; but not limited to; those classified as SIC codes:

(i) 5015 (motor vehicles parts; used); and

(ii) 5093 (scrap and waste materials);

(G) Steam electric power generating facilities; including coal handling sites.

(H) Transportation facilities classified as SIC codes:

- (i) 40 (railroad transportation);
- (ii) 41 (local and interurban passenger transit);
- (iii) 42 (trucking and warehousing, except 4221-25);
- (iv) 43 (United States Postal Service);
- (v) 44 (water transportation);
- (vi) 45 (transportation by air); and
- (vii) 5171 (petroleum bulk stations and terminals);

which have vehicle maintenance, solvent based industrial equipment cleaning, or airport de-icing areas. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication); solvent based industrial equipment cleaning operations; airport de-icing operations; or which are otherwise identified under this subsection are associated with industrial activity.

(I) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system; used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of one (1.0) million gallons per day or more; or that are required to have an approved pretreatment program under 40 CFR 403. Not included is farmland; domestic gardens, or land used for sludge management where sludge is beneficially reused; and which is not physically located in the confines of the facility or areas that are in compliance with the Federal Act.

(J) Facilities classified under the following SIC codes:

- (i) 20 (food and kindred products);
- (ii) 21 (tobacco products);
- (iii) 22 (textile mill products);
- (iv) 23 (apparel and other textile products);
- (v) 2434 (wood kitchen cabinets);
- (vi) 25 (furniture and fixtures);
- (vii) 265 (paperboard containers and boxes);
- (viii) 267;
- (ix) 27 (printing and publishing);
- (x) 283 (drugs);
- (xi) 285 (paints, varnishes, lacquers, enamels, and allied products);
- (xii) 30 (rubber and miscellaneous plastic products);
- (xiii) 31 (leather and leather products, except 311);
- (xiv) 323 (products of purchased glass);
- (xv) 34 (fabricated metal products, except 3441);
- (xvi) 35 (industrial machinery and equipment);
- (xvii) 36 (electronic and other electric equipment);
- (xviii) 37 (transportation equipment, except 373);
- (xix) 38 (instruments and related products);
- (xx) 39 (miscellaneous manufacturing industries);
- (xxi) 4221 (farm product warehousing and storage);
- (xxii) 4222 (refrigerated warehousing and storage);
- (xxiii) 4223;
- (xxiv) 4224 (household goods warehousing and storage);
- (xxv) 4225 (general warehousing and storage);

which are not otherwise included under clauses (B) through (I) only need to apply for regulation under this rule when storm water is potentially exposed to industrial activity.

(31) "Storm water pollution prevention plan" or "SWP3" means a written document that addresses storm water run-off for a specific industrial facility.

(32) "Structural control measure" means a physical structure

designed to reduce or eliminate the mobilization of pollutants by storm water.

*Copies of Section 208 of the Clean Water Act (33 U.S.C. 1288) referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**Copies of the Code of Federal Regulations (CFR) 40 CFR 122.2 referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Water Pollution Control Board; 327 IAC 15-6-4; filed Aug 31, 1992, 5:00 p.m.: 16 IR 27; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 751; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518*)

SECTION 24. 327 IAC 15-6-5, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-6-5 Additional NOI letter requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 5. In addition to the NOI letter requirements under 327 IAC 15-3, the following information must be submitted with the NOI letter under this rule:

- (1) Name of responsible corporate officer and/or written authorization for an alternate ~~person~~, **individual** or position to act as the duly authorized representative for that ~~person~~, **individual**, if appropriate, who will be responsible for all signatory responsibilities for the facility under 327 IAC 15-4-3(g).
- (2) Identification of the number and location of each point source discharge of storm water associated with industrial activity and the corresponding industrial activity associated with the drainage area of each point source discharge.
- (3) Name and contact information of the individual who can provide assistance with information pertaining to the facility's permit.
- (4) A brief narrative description of the industrial processes performed at the facility.
- (5) Identification of substantially similar ~~point source discharges~~ **outfalls** of storm water on the site, and, if appropriate, the outfall to be monitored as representative of all such ~~discharge points~~. **Also, explain discharges. An explanation of the rationale used to identify why certain point sources outfalls are similar must be included.**
- (6) A site layout map(s) drawn to an appropriate scale, which contains a legend and compass coordinates, indicating, at a minimum, the following:
 - (A) All on-site drainage and discharge conveyances, which may include pipes, ditches, swales, and erosion channels.
 - (B) Adjacent property drainage and discharge conveyances, if directly associated with run-off from the facility.
 - (C) All on-site and adjacent property water bodies, including wetlands and springs.
 - (D) An outline of the drainage area for each storm water outfall.
 - (E) An outline of the facility property indicating directional flows, via arrows, of surface drainage patterns.
 - (F) An outline of impervious surfaces, which may include

pavement and buildings, including an estimate of the square footage of impervious surfaces and pervious surfaces for each drainage area must be included in a map legend.

(G) On-site injection wells, as applicable.

(H) On-site wells used as potable water sources, as applicable.

(I) All existing structural control measures to reduce pollutants in storm water run-off.

(J) All existing and historical underground or aboveground storage tank locations, as applicable.

(K) All plowed or dumped snow storage locations.

(L) All loading and unloading areas for solid and liquid bulk materials.

(M) All existing and historical outdoor storage areas for raw materials, intermediary products, final products, and waste materials.

(N) All existing or historical outdoor storage areas for fuels and other materials that is containerized, for example, in drums, totes, and processing equipment.

(O) Outdoor processing areas.

(P) Dust or particulate generating process areas.

(Q) Outdoor waste storage or disposal areas.

(R) Pesticide or herbicide application areas.

(S) Vehicular access roads.

(7) An area map indicating:

(A) the topographic relief or similar elevations to determine surface drainage patterns;

(B) the facility boundaries outlined in a contrasting color;

(C) all receiving streams; and

(D) all drinking water wells;

within a one (1) mile radius beyond the property boundaries of the facility. This map must be to scale and include legend and compass coordinates.

(8) The identification of past and present NPDES permits, if applicable.

(9) The identification of the MS4 receiving the storm water discharge, if applicable.

(10) Proof of publication of the following statement in the newspaper of largest circulation in the area of the discharge: "(Your facility name, address, address of the location of the discharging facility, and the stream(s) receiving the discharge(s)) is submitting a NOI letter to notify the Indiana Department of Environmental Management (IDEM) of our intent to comply with the requirements under 327 IAC 15-6 to discharge storm water exposed to industrial activities. Any person aggrieved by this action may appeal in writing to the Office of Environmental Adjudication for an adjudicatory hearing on the question of whether this facility should operate under this NPDES general permit rule. An appeal must be postmarked no later than fifteen (15) days from the date of this public notice. Such a written request for an adjudicatory hearing must:

(A) state the name and address of the person making the request;

(B) identify the interest of the person making the request;

(C) identify any persons represented by the person making the request;

(D) state with particularity the reasons for the request;

(E) state with particularity the issues proposed for consideration at the hearing; and

(F) state with particularity the reasons why the NPDES general permit rule should not be available to the discharger identified in this notice.

Any such request shall be mailed or delivered to:

Office of Environmental Adjudication

150 West Market Street, Suite 618

Indianapolis, Indiana 46204."

(Water Pollution Control Board; 327 IAC 15-6-5; filed Aug 31, 1992, 5:00 p.m.: 16 IR 28; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 25. 327 IAC 15-6-6, AS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-6-6 Deadline for submittal of a NOI letter; additional information

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 6. All information required under 327 IAC 15-3 and section 5 of this rule shall be submitted to the commissioner in accordance with 327 IAC 15-3-3. ~~except, for persons that operate under 327 IAC 15-5 and that are affected by this rule; For newly constructed industrial facilities, the NOI letter shall be submitted one hundred eighty (180) days before completion of construction; prior to start up of industrial operations. For existing industrial facilities, the NOI letter must be submitted ninety days (90) after the finalization of this rule.~~ (Water Pollution Control Board; 327 IAC 15-6-6; filed Aug 31, 1992, 5:00 p.m.: 16 IR 28; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 26. 327 IAC 15-6-7, IS READOPTED AT 24 IR 1518, IS AMENDED TO READ AS FOLLOWS:

327 IAC 15-6-7 General requirements for a storm water pollution prevention plan

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 7. (a) The ~~person facility~~ regulated under this rule shall develop, a storm water pollution prevention plan ~~which implement, update, and maintain a SWP3 that:~~

(1) identifies potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges ~~associated with exposed to~~ industrial activity from the facility;

(2) describes practices ~~and measures~~ to be used in reducing the potential for pollutants to be exposed to storm water; ~~and~~

(3) assures compliance with the terms and conditions of this rule;

(4) lists individual members of a facility storm water pollution prevention team, who will be responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision; and

(5) clearly identifies the responsibilities of each storm water pollution prevention team member.

(b) For each area of the plant that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants; a The SWP3 must map and describe all areas of the facility that have a reasonable potential for storm water to be exposed to pollutants. As a minimum, the plan shall contain the following:

(1) A ~~description of potential pollutant sources: as follows: copy of the complete NOI letter and associated maps.~~

(A) The plan must provide a description of areas on the site reasonably expected to be sources which add significant amounts of pollutants to storm water discharges such as areas used for the following:

- (i) Loading or unloading of dry bulk materials or liquids;
 - (ii) Outdoor storage of raw materials, intermediary products, or final products, or waste products;
 - (iii) Outdoor process activities;
 - (iv) Dust or particulate generating processes;
 - (v) Unauthorized connections or management practices;
 - (vi) Waste disposal practices;
 - (vii) Areas upon which pesticides are applied;
- (B) To provide such a description, the plan shall include, at a minimum, the following items:
- (i) A site map indicating, at a minimum, the following:
 - (AA) Each drainage and discharge conveyance and outline of the drainage area of each storm water outfall;
 - (BB) Paved areas and buildings within the drainage area of each discharge point;
 - (CC) Each past or present area used for outdoor storage or disposal of significant materials;
 - (DD) Each existing structural control measure to reduce pollutants in storm water run-off;
 - (EE) Materials loading and access areas;
 - (FF) Each hazardous waste treatment, storage, or disposal facility, including each area not required to have a RCRA permit which is used for accumulating hazardous waste as defined in 327 IAC 5-1-2 under 40 CFR 262.34 as adopted in 329 IAC 3-14-3 [329 IAC 3 was repealed filed Jan 24, 1992, 2:00 p.m.: 15 IR 1002.];
 - (GG) Each well where fluids from the facility are injected underground;
 - (HH) Springs and wetlands;
 - (H) Other surface water bodies;
 - (JJ) Soil types;
 - (KK) Existing and proposed underground storage tanks;
 - (LL) Snow dumping sites, if any;
 - (ii) An estimate of the area of impervious surfaces, including paved areas and building roofs, relative to the total area drained by each outfall;
 - (iii) A topographic map, or other if a topographic map is unavailable, extending one-fourth (1/4) of a mile beyond the property boundaries of the facility, depicting the facility and each of its intake and discharge structures, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area. This item may be included in the site map required under item (i);
 - (iv) A narrative description of the following:
 - (AA) Significant materials that in the three (3) years prior to the submittal of the NOI letter have been treated, stored, or disposed on-site in a manner to allow exposure to storm water;
 - (BB) Method of treatment, storage, or disposal;
 - (CC) Past and present materials management practices employed to minimize contact of these materials with storm water run-off;
 - (DD) Materials loading and access areas;
 - (EE) The location and description of existing structural and nonstructural control measures to reduce pollutants in storm water run-off;
 - (FF) A description of any treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;
 - (v) A list of significant spills and leaks of toxic pollutants or hazardous substances as defined in 327 IAC 5-1-2 that occurred at the facility within three (3) years prior to the submittal of the

NOI letter. Such list shall be updated within ninety (90) days from when a significant spill or leak of toxic pollutants or hazardous substances occurs and shall include a description of the materials released; an estimate of the volume of the release; the location of the release; and a description of any remediation or cleanup measures taken.

(vi) For each area of the plant that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants; a prediction of the direction of flow; and an estimate of the types of pollutants which could be present in storm water discharges associated with industrial activity;

(vii) A summary of existing sampling data describing pollutants in storm water discharges;

(2) The facility shall be operated and maintained in such a manner that exposure of storm water to potential sources of significant pollutant material is minimized. To accomplish such an operation and maintenance program, the person shall develop management controls of storm water discharge/run-off appropriate for the facility and implement such controls. The storm water management controls shall include, at a minimum, the following components:

(A) A risk identification/assessment and material inventory which evaluates the potential for various areas of the plant to contribute pollutants to the storm water discharge by exposing the storm water to industrial activity. Such assessment and inventory shall consider factors such as the following:

- (i) An inventory of the types of materials handled; the location of material handling activities; and types of material management activities;
- (ii) Identification of the toxicity of chemicals utilized at the facility as well as the quantity of such chemicals used; produced; or discharged;
- (iii) A history of significant leaks or spills of pollutants known to have occurred;

(B) A preventative maintenance program which includes: routine inspection and maintenance of storm water management devices;

(C) A spill prevention and response program which identifies areas where potential spills can occur and their accompanying drainage points; and that minimizes the potential for spills to occur. The program shall include, at a minimum, procedures for the following:

- (i) Proper spill response and clean-up;
- (ii) Reporting a spill to the appropriate facility personnel and, if appropriate, local/state emergency response personnel;
- (iii) Routine maintenance and inspection of spill response/cleanup materials and equipment;

(D) An exposure reduction assessment which identifies the potential to eliminate/reduce storm water exposure in areas identified above as having a risk of exposing the storm water to significant pollutants and appropriate procedures to accomplish such elimination/reduction;

(E) A schedule for implementing procedures as identified under clause (D);

(F) Certify that storm water discharges from the site have been evaluated for the presence of nonstorm water;

(2) A soils map indicating the types of soils found on the facility property, and showing the boundaries of the facility property outlined in a contrasting color.

(3) An aerial photograph depicting the current layout on the facility property.

(4) A narrative description of potential pollutant source areas, including descriptions for any existing or historical areas listed in section 5(6) of this rule, and any other areas thought to be a

potential source of storm water exposure to pollutants. The narrative descriptions for each area must include the following:

- (A) Type and typical quantity of materials present in the area.
- (B) Methods of storage, including presence of any secondary containment measures.

(C) any remedial actions undertaken in the area, including the following:

- (i) The date and type of each action, for example, removal of an underground storage tank.
- (ii) The quantity and type of contaminated materials, such as soils or water, removed or treated.
- (iii) The results of any analytical sampling data to confirm an adequate removal of contaminated media.
- (iv) The name and address of any disposal facility utilized.

(D) Any spill or leak history in the area, for materials spilled in excess of their reportable quantity or twenty-five (25) gallons, whichever is lesser, including the following:

- (i) The date and type of material released.
- (ii) The estimated volume released.
- (iii) A description of the remedial actions undertaken, including disposal or treatment.
- (iv) The results of any analytical sampling data to confirm an adequate removal of contaminated media.

(E) The descriptions for each area must include a risk assessment analysis. The analysis must include the following:

- (i) Toxicity data of chemicals or materials used within the area, referencing appropriate Material Safety Data Sheet information locations.
- (ii) The frequency and typical quantity of listed chemicals or materials, to be stored on site.
- (iii) Potential ways in which storm water discharges may be exposed to listed chemicals and materials.
- (iv) The likelihood of the listed chemicals and materials to come into contact with storm water or facility personnel.

(5) A narrative description of existing and planned management practices and measures to improve the quality of storm water run-off leaving the facility property. Descriptions must be created for existing or historical areas listed in section 5(6) and any other areas thought to be a potential source of storm water exposure to pollutants. The description must include the following:

- (A) Any existing or planned structural and nonstructural control practices and measures.
- (B) Any treatment the storm water receives prior to leaving the facility property.
- (C) The ultimate disposal of any solid or fluid wastes collected in structural control measures other than by discharge.

(6) Information or other documentation required under subsection (d).

(7) The results of monitoring required in section 7.3 of this rule. The monitoring data must include completed field data sheets, chain-of-custody forms, and laboratory results. As two (2), or more, sample monitoring events are completed, the laboratory results must be placed in a comparative table, so that each sampled parameter can be compared to indicate water quality improvements in the run-off from the facility.

(8) If parameter reductions are not indicated in the comparative table compiled under subdivision (7), the source of the pollutant parameter must be investigated, and either eliminated or reduced via a management practice or measure. A mapped or narrative description of any such management practice or measure must be added to the SWP3.

(c) The SWP3 must meet the following general requirements: of a storm water pollution prevention plan shall include the following:

(1) The plan shall be certified by a qualified environmental professional.

(2) The plan shall be retained on-site at the facility and be available for review by a representative of the commissioner upon request, or in the case of a storm water discharge exposed to industrial activity which discharges through a municipal separate storm sewer system, by the operator or operators of the municipal system.

(3) A schedule shall be included with the plan which allows for compliance with the terms of The plan must be completed and implemented on or before three hundred sixty-five (365) days after submission of the a timely-submitted NOI letter, or, in the case of new facilities, prior to initiation of operation at the facility. The commissioner may grant an extension of this time frame based on a request by the person facility showing reasonable cause.

(4) The person regulated under this rule shall report once per quarter its progress in developing and implementing the plan. Once the plan is completed and implemented, the reports may cease. The reports shall be sent to:

Indiana Department of Environmental Management
Permits Section
Office of Water Management
105 South Meridian Street
P.O. Box 6015
Indianapolis, Indiana 46206-6015

The facility shall complete and submit to the commissioner a storm water pollution prevention plan certification checklist form within thirty (30) days of the plan completion date, but no later than three hundred sixty-five (365) days after the submission of a timely-submitted NOI letter.

(5) The person A facility regulated under this rule shall amend the plan:

(A) whenever there is a change in design, construction, operation, or maintenance at the facility, which may have a significant effect on the potential for the discharge of pollutants to surface waters of the state; or

(B) upon written notice by the commissioner that the storm water pollution prevention plan proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. Within thirty (30) days of such notification from the commissioner, the permittee shall make the required changes to the plan and shall submit the amended plan to the commissioner for review.

(6) If a facility has other written plans, required under applicable federal or state law, such as operation and maintenance, spill prevention control and countermeasures, or risk contingency plans, which fulfill certain requirements of a SWP3, these plans may be referenced, at the facility's discretion, in the appropriate sections of the SWP3 to meet those section requirements.

(d) Monitoring and reporting requirements shall be as follows:

(1) Each discharge outfall, or representative discharge outfall, composed entirely of storm water run-off, shall be monitored as follows:

Parameter	Units	Sample Type
Oil and grease	mg/l	grab
CBOD ₅	mg/l	grab and composite
COB	mg/l	grab and composite

TSS	mg/l	grab and composite
TKN	mg/l	grab and composite
T- phosphorous	mg/l	grab and composite
pH	s.u.	grab
Nitrate plus nitrite nitrogen	mg/l	grab and composite

(2) For those facilities subject to Federal Categorical Effluent Guidelines (40 CFR Subchapter N; in effect on February 12, 1992); Sara Title III facilities subject to report releases into the environment of chemicals which are classified as section 313 water priority chemicals used at the plant in the previous reporting year and which are reasonably expected to be in the discharge; or an individual NPDES permit for process discharge; those parameters required under these programs which are not listed in this subsection shall also be monitored and sampled by grab and composite; except cyanide, hexavalent chromium and volatile organic compounds, which shall be sampled by the grab sample method.

(3) Prior to implementation of the storm water pollution prevention plan; the person regulated under this rule shall sample and analyze the discharge from the outfall(s) regulated by this rule. During the second year of regulation under this rule; after implementation of the storm water pollution prevention plan; the person shall sample and analyze the discharge from the outfall(s) regulated under this rule for two (2) precipitation events. No further physical sampling is required unless the facility is notified to perform additional physical sampling by Indiana department of environmental management. During the third through the fifth year of regulation under this rule; visual inspections of each outfall or representative outfall as identified in the NOI letter shall be performed for two (2) storm events each year with results recorded and reported annually to the permits section. Visual inspections shall report the presence of turbidity; color; foam; solids; floatables; and an oil sheen.

(4) A grab sample shall consist of at least one hundred (100) milliliters collected during the first thirty (30) minutes; or as soon thereafter as practicable; of the discharge. The grab sample shall be analyzed separately from the composite sample. A composite sample shall consist of a flow or time-weighted sample; either by the time interval between each aliquot or by the volume of aliquot proportionate to the discharge flow at the time of sampling or the total discharge flow since collection of the previous aliquot. A composite sample shall be taken during a minimum of the first three (3) hours of a storm event.

(5) There shall be a minimum of three (3) months between reported sampling events.

(6) Samples taken in compliance with the monitoring requirements under subdivision (4) shall be taken at a point representative of the discharge but prior to entry into surface waters of the state of Indiana or a municipal separate storm sewer.

(7) Sampling type for discharges from a retention basin with a minimum twenty-four (24) hour detention capacity; or; for coal mines; ten (10) hour detention; shall be a grab sample for all parameters. Such a grab shall be taken within the first thirty (30) minutes of discharge from the pond after initiation of a storm event.

(8) All samples shall be collected from a discharge resulting from a measurable storm event at least seventy-two (72) hours from the previous measurable storm event and; where feasible; where the duration and total precipitation does not exceed fifty percent (50%) from the average or median precipitation event in the area; as determined by the nearest United States National Weather Service Information Center. Documentation of weather conditions that prevent sampling as described in this subsection must be provided to the commissioner.

(9) The analytical and sampling methods used shall conform to the current version of 40 CFR 136 as referenced in 327 IAC 5-2-13(c)(1).
(10) Samples and measurements taken as required under this subsection shall be representative of the volume and nature of the monitored discharge.

(e) Analysis shall be performed in accordance with 40 CFR 136; in effect on February 12, 1992; for quality assurance and quality control.

(f) Reporting requirements shall be as follows:

(1) All samples shall be reported as a value of concentration. Concentration is defined as the mass of any given material present in a unit volume of liquid. Unless otherwise indicated under this rule; concentration values shall be expressed in milligrams per liter.

(2) For each measurement or sample taken pursuant to the requirements of this rule; the facility shall record the following information:

(A) The exact place; date; and time of sampling.

(B) The person who performed the sampling or measurements.

(C) The dates the analyses were performed.

(D) The person who performed the analyses.

(E) The analytical techniques or methods used.

(F) The results of all required analyses and measurements.

(3) All records and information resulting from the monitoring activities required under this rule; including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation; shall be retained for a minimum of three (3) years. In cases where the original records are kept at another location; a copy of all such records shall be kept at the facility. The three (3) year period shall be extended:

(A) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the facility or regarding promulgated effluent guidelines applicable to the facility; or

(B) as requested by the regional administrator or the Indiana department of environmental management.

(4) The person regulated under this rule shall submit an annual report to the Indiana department of environmental management containing results obtained during the previous year and shall be postmarked no later than the twenty-eighth day of January each year. The regional administrator may request the person to submit monitoring reports to the EPA if it is deemed necessary to assure compliance with the applicable general permit rule.

(5) Persons regulated under this rule who have a discharge regulated under this rule which enters a municipal separate storm sewer shall also submit a copy of the discharge monitoring report required under subsection (d) to the operator of the municipal system in accordance with the requirements under subsection (d).

(6) If the person regulated under this rule monitors any pollutant at the location designated in this section more frequently than required under this rule; using approved analytical methods as specified in this subsection; the results of such monitoring shall be reported as additional information in the annual report. Such increased frequency shall also be indicated in the report.

(d) For the entire facility, storm water exposure to pollutants must be minimized. To ensure this reduction, the following practices and measures must be planned and implemented:

(1) A written preventative maintenance program, including the following:

(A) Implementation of good housekeeping practices to ensure the facility will be operated in a clean and orderly manner and that pollutants will not have the potential to be exposed to storm water via vehicular tracking or other means.

(B) Maintenance of storm water management measures, for example, catch basins or the cleaning of oil or water separators. All maintenance must be documented and contained in the SWP3.

(C) Inspection and testing of facility equipment and systems to ensure appropriate maintenance of such equipment and systems, and to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters. All inspections and testing must be documented and contained in the SWP3.

(D) Routine monthly inspections of the storm water management measures and storm water run-off conveyances. Monthly inspections must be documented and contained in the SWP3.

(E) An employee training program to inform personnel at all levels of responsibility of the components and goals of the SWP3. Training must occur at a minimum annually and should address topics such as spill response, good housekeeping and material management practices. The plan shall identify periodic dates for such training. All employee training sessions, including topics discussed and a roster of attendees, must be documented and contained in the SWP3.

(2) A written spill response program, including the following:

(A) Location, description, and quantity of all response materials and equipment.

(B) Response procedures for facility personnel to respond to a release.

(C) Contact information for reporting spills, both for facility staff and external emergency response entities.

(D) Routine maintenance, testing, and inspection of spill response materials and equipment. All maintenance, testing, and inspections must be documented and contained in the SWP3.

(3) A written nonstorm water assessment program, including the following:

(A) A certification letter stating that storm water discharges from the facility property have been evaluated for the presence of illicit discharges and nonstorm water contributions.

(B) Identification of areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify and implement measures to limit erosion.

(C) A plan to enclose or cover storage piles of sand and salt used for deicing or other commercial or industrial purposes to prevent exposure to precipitation, except for exposure resulting from the addition or removal of materials from the pile. Piles do not need to be enclosed or covered where storm water from the pile is not discharged to surface waters of the state. The plan must be included in the SWP3.

(4) Storage piles of sand and salt used for deicing or other commercial or industrial purposes must be enclosed or covered according to the plan required under subdivision (3)(C).

(5) No washing of equipment or vehicles that would allow wash waters to enter any storm drainage system or receiving water shall be allowed at the site.

(6) All maintenance area floor drains connected to storm sewers must be sealed or appropriately permitted under the NPDES wastewater program pursuant to 327 IAC 5. The sealing or permitting of drains under this item must be documented in the written nonstorm water assessment program.

(Water Pollution Control Board; 327 IAC 15-6-7; filed Aug 31, 1992, 5:00 p.m.: 16 IR 28; errata filed Sep 10, 1992, 12:00 p.m.: 16 IR 65; errata, 16 IR 898; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518)

SECTION 27. 327 IAC 15-6-7.3 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-6-7.3 Monitoring requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4

Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 7.3. (a) Monitoring requirements shall be as follows:

(1) Each discharge outfall, or representative discharge outfall, composed entirely of storm water run-off, shall be monitored annually as follows:

Parameter	Units	Sample Type
Oil and grease	mg/l	grab
CBOD ₅ (Carbonaceous biochemical oxygen demand)	mg/l	grab
COD (Chemical oxygen demand)	mg/l	grab
TSS (Total suspended solids)	mg/l	grab
TKN (Total Kjeldahl nitrogen)	mg/l	grab
Total phosphorous	mg/l	grab
pH	s.u.	grab
Nitrate plus nitrite nitrogen	mg/l	grab
E. coli bacteria	counts/100ml	grab
Total copper	mg/l	grab
Total zinc	mg/l	grab
Total lead	mg/l	grab

(2) Each discharge outfall subject to subdivision (1) shall be monitored for any other pollutant which is reasonably expected to be present in the discharge, as well as for any other pollutant as requested by the commissioner.

(3) Facilities that have other pollutants limited by or required to be monitored under a NPDES discharge permit issued by the commissioner for any discharge shall also monitor the storm water grab sample for any additional parameters listed in that permit.

(4) During the first year of regulation and prior to implementation of the SWP3, a facility regulated under this rule shall sample and analyze the discharge from the outfall identified in the approved NOI letter. The monitoring data taken from this first year event shall be used by the facility as an aid in developing and implementing the SWP3. Subsequent annual sampling data shall be used to verify the effectiveness of the SWP3 and will aid the facility with revising the SWP3 and with the implementation of additional BMPs, as necessary.

(5) The commissioner may require a facility to sample additional storm events beyond the required five (5) annual events upon finding reasonable cause. The commissioner shall notify the facility in writing that additional sampling is required.

(6) A grab sample must consist of at least one hundred (100) milliliters of the discharge collected during the first thirty (30) minutes, or as soon thereafter as practicable.

(7) The pH measurement must be taken immediately after the grab sample is collected and by using a portable pH meter that provides results displayed in numeric units. A color comparison analysis for pH is not acceptable.

(8) There shall be a minimum of three (3) months between reported sampling events.

(9) Samples must be taken at a point representative of the discharge but prior to entry into surface waters of the state or a municipal separate storm sewer.

(10) All samples must be collected from a discharge resulting from a measurable storm event at least seventy-two (72) hours

from the previous measurable storm event and, where feasible, where the duration and total precipitation does not exceed fifty percent (50%) from the average or median precipitation event in the area, as determined by the nearest United States National Weather Service Information Center. Documentation of weather conditions that prevent sampling as described in this subsection must be provided to the commissioner.

(11) The analytical and sampling methods used must meet the requirements of 327 IAC 5-2-13(d)(1) and 327 IAC 5-2-13(d)(2) for quality assurance and quality control.

(12) Run-off events resulting from snow or ice melt should not be sampled and may not be used to meet the minimum annual monitoring requirements.

(b) Reporting requirements shall be as follows:

(1) All samples must be reported as a value of concentration.

(2) For each measurement or sample taken under this rule, the facility shall record and submit the following information to the commissioner:

(A) The exact place, date, and time of the start of the discharge, the magnitude of the storm event sampled in inches, and time of sampling.

(B) The duration between the storm event sampled and the end of the previous measurable storm event.

(C) The individual who performed the sampling or measurements.

(D) The dates the analyses were performed.

(E) The individual who performed the analyses.

(F) The analytical techniques or methods used.

(G) The results of all required analyses and measurements.

(H) A complete copy of the laboratory report, including chain-of-custody.

(3) All records and information resulting from the monitoring activities required under this rule, including all records of analyses performed and calibration and maintenance of instrumentation, must be retained for a minimum of five (5) years following the expiration of the facility's permit, or longer if requested by the commissioner.

(4) A facility regulated under this rule shall submit sampling data results to the commissioner as soon as they are completed.

(5) A facility regulated under this rule that has a discharge which enters a municipal separate storm sewer shall also submit a copy of the sampling data results to the operator of the municipal system upon request.

(6) If a facility regulated under this rule monitors a pollutant more frequently than required under this rule, using analytical methods specified in this subsection, the results of such monitoring must be reported as additional information in the annual report.

Such increased frequency must also be indicated in the report.

(Water Pollution Control Board; 327 IAC 15-6-7.3)

SECTION 28. 327 IAC 15-6-7.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-6-7.5 Annual reports

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 7.5. A facility regulated under this rule shall submit an annual report to the commissioner that contains the following information:

(1) Any changes to the original NOI letter.

(2) Any changes to the facility, the facility's operations or industrial activities.

(3) During the second through fifth years of permit coverage, a copy of the comparative table of all sampling data results included in the facility's SWP3 and required under section 7(b)(7) of this rule.

(4) Any additional BMPs implemented or corrective measures taken as a result of sampling data results.

(5) Any additional good housekeeping or pollution prevention measures implemented.

The annual report must contain information obtained during the previous year of regulation and be postmarked no later than the twenty-eighth day of January each year. (Water Pollution Control Board; 327 IAC 15-6-7.5)

SECTION 29. 327 IAC 15-6-8.5 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-6-8.5 Permit compliance schedule

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 8.5. The following compliance schedule must be followed:
Permit Compliance Schedule

To apply for coverage	Submit a completed NOI letter
1 st year of permit coverage	Submit results of sampling data Develop and implement the SWP3 Submit SWP3 certification checklist Submit annual report
2 nd year of permit coverage	Submit results of sampling data Submit annual report
3 rd year of permit coverage	Submit results of sampling data Submit annual report
4 th year of permit coverage	Submit results of sampling data Submit annual report
5 th year of permit coverage	Submit results of sampling data Submit annual report
90 days before permit expires	Resubmit a completed NOI letter
Permit renewals:	Repeat annual sampling schedule Submit SWP3 certification checklist during the first year of renewal coverage only if substantial changes have been made on site or to the plan since its inception Submit annual reports

Annual report permit compliance information obtained during the previous year shall be postmarked no later than the twenty-eighth day of January each year. All other reports must be sent in as soon as they are complete. The reports must be sent to:

Attention: Rule 6 Coordinator
Indiana Department of Environmental Management
Office of Water Quality
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

(Water Pollution Control Board; 327 IAC 15-6-8.5)

SECTION 30. 327 IAC 15-6-10 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-6-10 Duration of coverage and renewal

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 10. A permit issued under this rule is valid for a period of five (5) years from the date that the commissioner receives an original NOI letter. To obtain renewal of coverage under this rule, the information required under 327 IAC 15-3 and section 5 of this rule must be submitted to the commissioner ninety (90) days prior to the termination of coverage under this rule, unless the commissioner determines that a later date is acceptable. (*Water Pollution Control Board; 327 IAC 15-6-10*)

SECTION 31. 327 IAC 15-6-11 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-6-11 Termination of coverage; permit not transferable
 Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
 Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 11. A facility regulated under this rule shall submit a NOT letter to the commissioner upon closure of the facility or upon transfer of ownership or operator as defined in 327 IAC 15-2-8 within thirty (30) days of the date of closure or transfer. The new owner or operator must submit a new NOI letter within sixty (60) days of the date of closure or transfer. (*Water Pollution Control Board; 327 IAC 15-6-11*)

SECTION 32. 327 IAC 15-6-12 IS ADDED TO READ AS FOLLOWS:

327 IAC 15-6-12 Conditional no exposure exclusion
 Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2; IC 13-18-3; IC 13-18-4
 Affected: IC 13-12-3-1; IC 13-12-3-1

Sec. 12. (a) A facility regulated under this rule may request an exclusion from permit coverage by:

- (1) submitting the United States Environmental Protection Agency (U.S. EPA) "No Exposure Certification" form to the commissioner; and
- (2) certifying that no storm water is potentially exposed to industrial activity.

If an industrial activity or material at a facility will be exposed to precipitation, the facility is not eligible for exclusion under this section. A copy of the "No Exposure Certification" form must also be submitted to the operator of any regulated municipal separate storm sewer system (MS4) into which the facility discharges, upon request by the operator.

(b) Information contained in the "No Exposure Certification" form* and the U.S. EPA's "Guidance Manual for Conditional Exclusion from Storm Water Permitting Based on "No Exposure" of Industrial Activities to Storm Water"*** shall be used by the commissioner to determine whether a facility is eligible for the exclusion. Definitions of terms provided in these documents shall apply to the commissioner's interpretation of the no exposure exemption.

(c) The commissioner shall notify the facility in writing whether the "No Exposure" exclusion for permit coverage is granted. A facility excluded under this section shall meet the following requirements:

- (1) A copy of the "No Exposure" Certification Form must be retained on site for a period of five (5) years following the date that the commissioner received the original form.
- (2) The "No Exposure Certification" Form must be submitted once every five (5) years to the commissioner.

(3) The certification for no exposure is nontransferable. If a new operator or owner takes over a facility, the new operator shall immediately complete and submit a new certification form in order to claim the exclusion.

(d) If the commissioner finds that the facility has a reasonable potential to cause or contribute to a violation or nonattainment of a water quality standard, the commissioner may, upon notifying the facility in writing, deny the exclusion and require the facility to obtain permit coverage within thirty (30) days of the date on the notification letter.

(e) Failure to maintain the condition of no exposure or obtain coverage under an NPDES permit may lead to the unauthorized discharge of pollutants to waters of the state.

*Copies of the No Exposure Certification Form referenced in this section are available at http://cfpub1.epa.gov/npdes/stormwater/exposure.cfm?program_id=6.

**Copies of the Guidance Manual for Conditional Exclusion from Storm Water Permitting Based on "No Exposure" of Industrial Activities to Storm Water referenced in this section is available at http://cfpub1.epa.gov/npdes/stormwater/exposure.cfm?program_id=6. (*Water Pollution Control Board; 327 IAC 15-6-12*)

SECTION 33. 327 IAC 15-5-11 IS REPEALED.

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on November 14, 2001 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Water Pollution Control Board will hold a public hearing on amendments to 327 IAC 15, NPDES General Permit Program related to storm water.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Technical information regarding this action may be obtained from Lori Gates, Office of Water Quality, Wet Weather Section, (317) 233-6725 or (800) 451-6027 (in Indiana). Additional information regarding this action may be obtained from Kiran Verma, Rules Section, Office of Water Quality, (317) 234-0986 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 234-1208 (V) or (317) 232-6565 (TTD). Speech and hearing impaired callers may contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Water Quality,

Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Twelfth Floor, Indianapolis, Indiana and are open for public inspection.

Timothy J. Method
Acting Assistant Commissioner
Office of Water Quality
Indiana Department of Environmental Management

TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST NOTICE OF COMMENT PERIOD #01-288(SWMB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REMOVAL OF REFERENCES TO SPECIAL WASTE AND INDUSTRIAL WASTE FROM 329 IAC 10 THROUGH AND 329 IAC 13

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules in 329 IAC 10 through 329 IAC 13 to remove references to industrial waste and special waste as required by Public Law 218-2001 (HEA 1830). IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 10; 329 IAC 11; 329 IAC 12; 329 IAC 13.

AUTHORITY: IC 13-14-8; IC 13-19-3; P.L.218-2001, SECTION 10.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

In its 2001 session, the Indiana General Assembly adopted P.L.218-2001 that, among other things:

- (1) repeals IC 13-20-7.5 regulating disposal of industrial waste;
- (2) allows IDEM to modify a permit to prohibit processing or disposal of specific solid waste at a solid waste disposal facility or a solid waste processing facility; and
- (3) requires the Solid Waste Management Board (board) to adopt rules to remove references to special waste and industrial waste in the rules of the board.

The purposes of this rulemaking are to:

- (1) implement the requirements of P.L.218-2001 by removing references to special waste and industrial waste wherever they occur in 329 IAC 10 through 329 IAC 13;
- (2) amend affected parts of the rules as needed to correct problems resulting from removal of references to special waste and industrial waste;
- (3) provide necessary guidance and direction to persons who dispose of solid wastes other than municipal solid waste;
- (4) prohibit or regulate such disposal where necessary; and
- (5) streamline and correct the rules at 329 IAC 10 through 329 IAC 13 as needed to eliminate unnecessary, confusing, or overly burdensome requirements and to comply with IC 4-22-2-20 and the Administrative Rules Drafting Manual published by the Legislative Services Agency.

Several parts of the rules of the board at 329 IAC 10 through 329 IAC 13 reference the special waste rules in various ways. In particular,

the requirements for alternative daily cover at 329 IAC 10-20-14.1 require persons using alternative daily cover at a municipal solid waste landfill to comply with the special waste rules at 329 IAC 10-8.1. Removal of the special waste rules will require extensive changes to the rules for alternative daily cover. Similar situations may occur in other areas. IDEM is soliciting comment on ways to modify the rules to remove references to special waste and industrial waste without eliminating the safeguards in those rules.

P.L.218-2001 added a new IC 13-19-3-8.2 that allows IDEM to modify a permit to prohibit processing or disposal of specific solid waste at a solid waste disposal facility or a solid waste processing facility. There are a number of ways to make such permit modifications, from using the existing permitting rules and procedures to writing new rules for permit modifications and management of solid wastes other than municipal solid waste. For example, "permit-by-rule" provisions for specific wastes could establish appropriate controls without subjecting landfills to the paperwork burden to modify a permit. IDEM is soliciting comment on ways to modify permits to prohibit or regulate management of specific solid wastes at solid waste disposal facilities and solid waste processing facilities.

IDEM is also soliciting comment on solid wastes that should or should not be prohibited from disposal, or solid wastes that should be regulated in some way in this rulemaking.

With the exception of removing references to special waste and industrial waste directed by P.L.218-2001, SECTION 10, IDEM has not selected any specific options to accomplish the purposes of this rulemaking. IDEM is soliciting comment on the full range of options from no action to prohibiting or regulating disposal of specific classes of solid waste. IDEM is soliciting comments on any reasonable ways to accomplish the purpose of this rulemaking within the boundaries of Indiana's environmental management laws.

In the 2000 legislative session, Senate Enrolled Act 372 (P.L.138-2000) was enacted to repeal the definition of special waste and the standards for special waste disposal in IC 13-20-7, to define industrial waste, and to establish new disposal standards for industrial waste at IC 13-20-7.5. SECTION 10 of P.L.138-2000 required the Solid Waste Management Board to adopt rules to reflect the elimination of references to special waste and the addition of references to industrial waste. On June 1, 2000, IDEM published LSA Document #00-110 to accomplish the requirements of that statute. P.L.218-2001 repealed both IC 13-20-7.5 and SECTION 10 of P.L.138-2000. As a result, IDEM is withdrawing LSA Document #00-110.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#01-288(SWMB) [*Removal of Special Waste and Industrial Waste*]
Marjorie Samuel
Rules, Planning and Outreach Section
Office of Land Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, 100 North Senate Avenue, Eleventh Floor East, Indianapolis, Indiana. Comments may be submitted by facsimile at (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered or faxed by November 1, 2001.

Additional information regarding this action may be obtained from Steve Mojonniere of the Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana), press zero (0), and ask for extension 3-1655.

Mary Beth Tuohy
Assistant Commissioner
Office of Land Quality

TITLE 329 SOLID WASTE MANAGEMENT BOARD**FINDINGS AND DETERMINATION OF THE
COMMISSIONER PURSUANT TO IC 13-14-9-8
AND DRAFT RULE
#01-289(SWMB)****DEVELOPMENT OF AMENDMENTS TO RULES CONCERN-
ING THE HAZARDOUS WASTE MANAGEMENT PERMIT
PROGRAM AND RELATED HAZARDOUS WASTE MAN-
AGEMENT****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rules concerning the hazardous waste management permit program and related hazardous waste management and has scheduled a public hearing/ meeting before the solid waste management board (board) for consideration of preliminary adoption of these rules.

The amendments adopted by these rules are amendments to the federal hazardous waste regulations that are incorporated by reference in the Indiana hazardous waste management rules at 329 IAC 3.1. These amendments are required to be adopted by the Resource Conservation and Recovery Act, as amended (42 U.S.C. §6901 et seq.), and by Indiana statutes. This rule would also adopt changes required by P.L.143-2000 that were not adopted in previous rulemaking.

CITATIONS AFFECTED: 329 IAC 3.1-1-7; 329 IAC 3.1-4-9.1; 329 IAC 3.1-4-17.1; 329 IAC 3.1-7-2; 329 IAC 3.1-9-2; 329 IAC 3.1-10-2.

AUTHORITY: IC 13-14-8-4; IC 13-14-8-7; IC 13-19-3-1; IC 13-22-2; IC 13-22-4-1; P.L.143-2000, SECTIONS 3 and 8.

STATUTORY REQUIREMENTS

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forego these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption, and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

- (1) the rule constitutes:
 - (A) an adoption or incorporation by reference of a federal law, regulation, or rule that:
 - (i) is or will be applicable to Indiana; and
 - (ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;
 - (B) a technical amendment with no substantive effect on an existing Indiana rule; or
 - (C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and
- (2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:
 - (A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;
 - (B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and
 - (C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

BACKGROUND

The abbreviated rulemaking process described in IC 13-14-9-8 is being used for this rulemaking because:

- (1) This rulemaking incorporates by reference federal regulations that are required by federal law and makes other changes required by Indiana law.
- (2) This rulemaking is required to retain U.S. Environmental Protection Agency (U.S. EPA) authorization to manage the hazardous waste program in Indiana.
- (3) No substantive modifications of the federal requirements being incorporated are included.
- (4) Because there are no alternatives to incorporation by reference of these rules or adoption of equivalent state rules, there is no benefit to the people of Indiana or the environment from following the full notice and comment procedures of IC 13-14-9.

(5) IC 13-14-8-7(b) requires the board to adopt new rules or amend existing rules to implement an amendment to the federal Resource Conservation and Recovery Act (40 U.S.C. 6901 et seq.) within nine (9) months of its effective date.

This rulemaking incorporates the following amendments to the federal hazardous waste management regulations at 40 CFR 260 through 40 CFR 270, published in the Federal Register from July 10, 2000, through May 16, 2001:

Federal Register	Publication Date	Subject
65 FR 42292	July 10, 2000	NESHAPS: Final Standards for Hazardous Air Pollutants For Hazardous Waste Combustors; Final Rule, Technical Correction
65 FR 67068	November 8, 2000	Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities, (K174/K175) Final Rule
65 FR 81373	December 26, 2000	Deferral of Phase IV Standards for PCB's as a Constituent Subject to Treatment in Soil; Final Rule
66 FR 24270	May 14, 2001	NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule; Implementation of Court Order
66 FR 27218	May 16, 2001	Storage, Treatment, Transportation, and Disposal of Mixed Waste; Final Rule
66 FR 27266	May 16, 2001	Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules; Final Rule

Public Law 143-2000, SECTION 3, repealed provisions of IC 13-22-4 relating to the Indiana Hazardous Waste Manifest and required hazardous waste generators to use the Uniform Hazardous Waste Manifest Form adopted by the United States Environmental Protection Agency (USEPA) rather than the version of those forms currently provided by IDEM to generators for a fee. The 2000 Hazardous Waste Annual Update (LSA Document #00-180(F)) repealed those sections of 329 IAC 3.1-7 relating to the Indiana Hazardous Waste Manifest. However, 329 IAC 3.1-9-2(6) and 329 IAC 3.1-10-2(8), that required permitted treatment, storage and disposal facilities to sent copies of the manifest to IDEM were not repealed. This rulemaking would repeal those provisions.

329 IAC 3.1-7-2 would be amended to remove a provision that requires generators to enter waste handling codes on the Uniform Hazardous Waste Manifest, because this requirement conflicts with IC 13-22-4-3.1. This amendment simplifies the manifest provisions.

Finally, the 2000 Hazardous Waste Annual Update (LSA Document #00-180(F)) repealed the Indiana requirements for universal waste

lamps at 329 IAC 3.1-16 and incorporated by reference the federal universal waste lamp regulations in 40 CFR 273. The 2000 Update did not repeal the definitions of "electric lamp" and "mercury-containing lamp" in 329 IAC 3.1-4. Because those terms are defined in 40 CFR 273, the definitions in 329 IAC 3.1-4 are not needed and would be repealed in this rulemaking.

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking for amendments to rules concerning the hazardous waste management permit program and related hazardous waste management. These findings are prepared under IC 13-14-9-8 and are as follows:

(1) This rulemaking is the direct adoption of federal requirements that are required to be adopted by federal law and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.

(2) Indiana is required by federal law to adopt amendments to the federal hazardous waste management system regulations promulgated by the U.S. EPA under Subtitle C of the Resource Conservation and Recovery Act, as amended, and the Hazardous and Solid Waste Amendments of 1984 thereto (40 U.S.C. 6921 et seq.). This rulemaking:

(A) incorporates six (6) amendments to those rules published in the Federal Register from July 10, 2000, through May 16, 2001; and
(B) corrects provisions in Indiana's hazardous waste rules that are inconsistent with the federal hazardous waste program or Indiana law.

(3) The public will benefit from prompt adoption of this rule, because it will allow Indiana to retain U.S. EPA authorization to manage the hazardous waste program in Indiana. To retain U.S. EPA authorization, IDEM must adopt these federal regulations as state regulations, or adopt substantially equivalent and consistent regulations. Without this authorization, the U.S. EPA would be responsible for management of hazardous waste in Indiana, rather than IDEM. Because businesses, generators, and the public benefit from state management of hazardous wastes, IDEM intends to take the necessary steps to maintain U.S. EPA authorization to manage the hazardous waste program in Indiana.

(4) The regulated entities will benefit from prompt adoption of this rule, because it will make the hazardous waste management program in Indiana consistent with the federal hazardous waste management program.

(5) I have determined that under the specific circumstances pertaining to this rule there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.

(6) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan
Commissioner
Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Steve Mojonniere, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or dial (800) 451-6027 in Indiana, press 0, and ask for extension 3-1655.

DRAFT RULE

SECTION 1. 329 IAC 3.1-1-7, AS AMENDED AT 24 IR 2431, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-1-7 Incorporation by reference

Authority: IC 13-19-3-1; IC 13-22-4

Affected: IC 13-14-8; 40 CFR 260.11

Sec. 7. (a) When incorporated by reference in this article, references to 40 CFR 260 through 40 CFR 270 and 40 CFR 273 shall mean the version of that publication revised as of ~~July 1, 1999~~ **July 1, 2001**. When used in 40 CFR 260 through 40 CFR 270 and 40 CFR 273, as incorporated in this article, references to federally incorporated publications shall mean that version of the publication as specified at 40 CFR 260.11. The following publications are also incorporated by reference:

- (1) 40 CFR 146 (1995).
- (2) 40 CFR 60, Appendix A (1995).
- (3) ~~Amendments to 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 268; 40 CFR 270; and 40 CFR 273 published in the Federal Register on July 6, 1999; at 64 FR 36487 through 64 FR 36490;~~
- (4) ~~Amendments to 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; and 40 CFR 271 published in the Federal Register on September 30, 1999; at 64 FR 53070 through 64 FR 53077;~~
- (5) ~~Amendments to 40 CFR 261; 40 CFR 262; and 40 CFR 268 published in the Federal Register on October 20, 1999; at 64 FR 56470 through 64 FR 56472;~~
- (6) ~~Amendments to 40 CFR 261 and 40 CFR 266 published in the Federal Register on November 19, 2000; at 64 FR 63212 through 64 FR 63213;~~
- (7) ~~Amendments to 40 CFR 262 published in the Federal Register on March 8, 2000; at 65 FR 12397 through 12398;~~
- (8) ~~Amendments to 40 CFR 261 and 40 CFR 268 published in the Federal Register on March 17, 2000; at 65 FR 14474 through 14475;~~
- (9) ~~Amendments to 40 CFR 270 published in the Federal Register on May 15, 2000; at 65 FR 30913;~~
- (10) ~~Amendments to 40 CFR 261 and 40 CFR 268 published in the Federal Register on June 8, 2000; at 65 FR 36366 through 36367;~~

(b) Federal regulations that have been incorporated by reference do not include any later amendments than those specified in the incorporation citation in subsection (a). Sales of the Code of Federal Regulations are handled by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The telephone number for the Government Printing Office is (202) 512-1800. The incorporated materials are available for public review at the offices of the department of environmental management.

(c) Where exceptions to incorporated federal regulations are necessary, these exceptions will be noted in the text of the rule. In addition, all references to administrative stays are deleted.

(d) Cross-references within federal regulations that have been incorporated by reference shall mean the cross-referenced provision as incorporated in this rule with any indicated additions and exceptions.

(e) The incorporation of federal regulations as state rules does not negate the requirement to comply with federal provisions which may be effective in Indiana which are not incorporated in this article or are retained as federal authority. (*Solid Waste Management Board*; 329 IAC 3.1-1-7; filed Jan 24, 1992, 2:00 p.m.: 15 IR 909; filed Oct 23, 1992, 12:00 p.m.: 16 IR 848; filed May 6, 1994, 5:00 p.m.: 17 IR 2061; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3353; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1111;

filed Oct 31, 1997, 8:45 a.m.: 21 IR 947; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2739; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; filed Mar 6, 2000, 8:02 a.m.: 23 IR 1637; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2431)

SECTION 2. 329 IAC 3.1-7-2, AS AMENDED AT 24 IR 2432, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-7-2 Exceptions and additions; generator standards

Authority: IC 13-14-8; IC 13-22-4

Affected: IC 13-22-2; 40 CFR 262

Sec. 2. Exceptions and additions to federal standards for generators are as follows:

- (1) Delete 40 CFR 262.12(a) and substitute "A generator who has not received an EPA identification number may obtain one by applying on forms provided by the commissioner. Upon receipt of the completed forms, an EPA identification number will be assigned."

- (2) In addition to the requirements of 40 CFR 262, Subpart B and the appendix to 40 CFR 262, the generator shall enter the EPA hazardous waste number ~~and handling code~~ for each waste on the Uniform Hazardous Waste Manifest (**EPA Form 8700-22**) as follows:

- (A) ~~The EPA hazardous waste number for each waste must be entered on the manifest as follows:~~

- (i) ~~For characteristic hazardous waste, Enter the four (4) digit EPA hazardous waste number from 40 CFR 261 Subpart C; that identifies the waste in item "I" of the manifest form or item "R" of the continuation sheet (EPA Form 8700-22A).~~

- (ii) ~~For listed hazardous waste, enter the four (4) digit EPA hazardous waste number from 40 CFR 261, Subpart D; that identifies the waste in item "I" of the manifest form.~~

- (iii) ~~Where a hazardous waste contains more than one (1) listed waste; or where more than one (1) hazardous waste characteristic applies to the waste; enter each of the applicable EPA waste numbers that identify the waste. When entering multiple EPA hazardous waste numbers; enter the EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item "I". Enter the remaining EPA hazardous waste numbers; up to four (4) for each waste; in item "J".~~

- (iv) ~~(B) If a waste has more than four (4) additional multiple EPA hazardous waste numbers associated with it; enter the words "multiple coded" or "multi-coded" instead of the additional codes for that waste apply, enter the hazardous waste numbers as follows:~~

- (i) ~~Enter the one (1) EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item "I" of the manifest form or item "R" of the continuation sheet.~~

- (ii) ~~The remaining EPA hazardous waste numbers may be entered in item "J" of the manifest form or item "S" of the continuation sheet.~~

- ~~(v) (C) For nonhazardous or unregulated waste that may be included in the shipment, enter "NONE" in item "I".~~

- ~~(B) The handling code for each waste must be entered in item "K" of the manifest form as follows:~~

- (i) ~~Enter the three (3) character handling code from 40 CFR 264, Appendix 1, Table 2 that most closely represents the method used at the facility designated in accordance with 40 CFR 262.20(b) to treat, store, dispose, or recover each hazardous waste identified on the manifest.~~

(ii) If multiple methods are used, the code that most closely reflects the ultimate disposition of the waste at the facility must be entered.

(iii) If clarification is necessary, enter this information in item 15 or item 32 on the continuation sheet, EPA Form 8700-22A.

(3) Delete 40 CFR 262.41 dealing with biennial reporting and substitute section 14 of this rule.

(4) In 40 CFR 262.42(a)(2), delete "in the Region in which the generator is located".

(5) Delete 40 CFR 262.43 dealing with additional reporting and substitute section 15 of this rule.

(6) In 40 CFR 262.53 and 40 CFR 262.54, references to the "EPA" are retained. A copy of the notification of intent to export, which must be submitted to the EPA, must also be submitted to the Office of Land Quality, Indiana Department of Environmental Management, P.O. Box 7035, Indianapolis, Indiana 46207-7035.

(7) Exception reports required from primary exporters pursuant to 40 CFR 262.55 must be filed with the Regional Administrator of the EPA and the commissioner.

(8) Delete 40 CFR 262.56 dealing with annual reports for exports and substitute section 16 of this rule.

(9) In 40 CFR 262.57(b), the reference to the "administrator" is retained. The commissioner may also request extensions of record retention times for hazardous waste export records.

(Solid Waste Management Board; 329 IAC 3.1-7-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 925; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1098; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2432)

SECTION 3. 329 IAC 3.1-9-2, AS AMENDED AT 24 IR 2433, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-9-2 Exceptions and additions; final permit standards

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

(1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.

(2) In 40 CFR 264.4 dealing with imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".

(3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner's authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

~~(5) In addition to the requirements at 40 CFR 264.71 dealing with use of the manifest system, the owner or operator, or the owner's or operator's agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five~~

~~(5) working days after receiving the manifest.~~

~~(6) (5)~~ In 40 CFR 264.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "forms provided by the commissioner".

~~(7) (6)~~ In 40 CFR 264.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".

~~(8) (7)~~ In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the ~~department~~ commissioner.

(B) In addition to the paper copies required in clause (A), an electronic report in a format prescribed by the ~~department~~ commissioner.

(d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner."

~~(9) (8)~~ Delete 40 CFR 264, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-15.

~~(10) (9)~~ Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

~~(11) (10)~~ In 40 CFR 264.221(e)(2)(i)(C), delete "permits under RCRA Section 3005(c)" and insert "with final state permits".

~~(12) (11)~~ Delete 40 CFR 264.301(I).

~~(13) (12)~~ Delete 40 CFR 264, Appendix VI.

~~(14) (13)~~ In 40 CFR 264.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(15) (14)~~ In 40 CFR 264.316(f), delete "fiber drums" and substitute "nonmetal containers".

(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433)

SECTION 4. 329 IAC 3.1-10-2, AS AMENDED AT 24 IR 2434, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

329 IAC 3.1-10-2 Exceptions and additions; interim status standards

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 4-21.5; IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 265

Sec. 2. Exceptions and additions to federal interim status standards are as follows:

(1) In 40 CFR 265.1(a) dealing with scope of the permit, delete "national" and insert "state".

(2) In 40 CFR 265.1(b), delete "section 3005 of RCRA" and insert "329 IAC 3.1-13" in both places where it occurs.

(3) Delete 40 CFR 265.1(c)(4).

(4) In 40 CFR 265.4 dealing with imminent hazard action, delete "7003 of RCRA" and insert "IC 13-30-3 and IC 13-14-10".

(5) Reports to the state required at 40 CFR 265.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745,

or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(6) The written spill report required by 40 CFR 265.56(j) must also include information deemed necessary by the commissioner or the commissioner's authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

~~(7) In addition to the requirements at 40 CFR 265.71 dealing with use of the manifest system, the owner or operator, or the owner's or operator's agent, must send one (1) copy of each manifest received with a hazardous waste shipment to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, IN 46206-6015 within five (5) working days after receiving the manifest.~~

~~(8) (7) In 40 CFR 265.75 dealing with the biennial report, delete "EPA form 8700-13B" and insert "form provided by the commissioner".~~

~~(9) (8) In 40 CFR 265.76 dealing with unmanifested waste reports, delete "The unmanifested waste report must be submitted on EPA form 8700-13B".~~

~~(10) (9) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (c), "Ground water data for laboratory analytical results and field parameters must be submitted as follows:~~

(A) Two (2) paper copies on the most current form prescribed by the department.

(B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the department."

~~(11) (10) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (d), "The commissioner may request other information as required by Subparts AA through CC of this part be submitted in an electronic format as prescribed by the commissioner."~~

~~(12) (11) In 40 CFR 265.90 dealing with ground water monitoring requirements, delete all references to effective date.~~

~~(13) (12) Delete 40 CFR 265.112(d)(3)(ii) and substitute: "Issuance of a judicial decree or final order under section 3008 of RCRA, judiciary decree under IC 13-30-3, or final administrative order under IC 4-21.5 to cease receiving hazardous waste or close".~~

~~(14) Delete 40 CFR 265.118(e)(2) and substitute the language in subdivision (11).~~

~~(15) Delete 40 CFR 265, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-14.~~

~~(16) In 40 CFR 265.191(a), the January 12, 1988, deadline date for integrity assessments shall only apply to existing interim status or permitted tank systems that are underground and cannot be entered for inspection. Integrity assessments shall be completed on all remaining tank systems by December 20, 1989.~~

~~(17) In 40 CFR 265.191(c), delete "July 14, 1986" and insert "June 20, 1988".~~

~~(18) In 40 CFR 265.193(a), delete all references to deadline dates for secondary containment for existing systems and substitute the dates specified in 329 IAC 3.1-9-3(c)(1) through 329 IAC 3.1-9-3(c)(8).~~

~~(19) In 40 CFR 265.301(d)(2)(i)(B) dealing with the definition of the term "underground source of drinking water", delete "144.3 of this chapter" and insert "40 CFR 270.2".~~

~~(20) In 40 CFR 265.301(d)(2)(i)(C), delete "RCRA Section 3005(c)" and insert "329 IAC 3.1-13".~~

~~(21) In 40 CFR 265.314(g)(2) dealing with the definition of the term "underground source of drinking water", delete "144.3 of this chapter" and insert "40 CFR 270.2".~~

(21) In 40 CFR 265.316(b), delete "(49 CFR Parts 178 and 179)" and substitute "(49 CFR Part 178)".

~~(22) (22) In 40 CFR 265.316(f), delete "fiber drums" and substitute "nonmetal containers".~~

~~(23) (23) Delete 40 CFR 265.430(b) and substitute the following: The requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I and Class IV in section 3 of this rule.~~

(Solid Waste Management Board; 329 IAC 3.1-10-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 937; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3357; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1113; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2742; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2434)

SECTION 5. THE FOLLOWING ARE REPEALED: 329 IAC 3.1-4-9.1; 329 IAC 3.1-4-17.1.

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on October 16, 2001 at 1:30 p.m., at the Elkhart Public Library, Conference Room 5, 300 South Second Street, Elkhart, Indiana, the solid waste management board will hold a public hearing on amendments to the rules for the hazardous waste management program at 329 IAC 3.1.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Steve Mojonner, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or dial (800) 451-6027 in Indiana, press "0" and ask for extension 3-1655.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 234-1208 (V) or (317) 233-6565 (TT). Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file and open for public inspection at the Indiana Department of Environmental Management Central File Room, Indiana Government Center-North, 100 North Senate Avenue, Room 1201 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana.
